IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION

JOHN STEPHEN COLEMAN, SR.,)
AIS# 223809)
Petitioner,)
VS.)) CIVIL ACTION NO.
) 2:07-CV-00294-MHT (WO)
WARDEN DAVENPORT, et al.,))
Respondents.)

RESPONDENTS' ANSWER TO COURT'S ORDER TO SHOW CAUSE

Come now Respondents, by and through the Attorney General of the State of Alabama, and file their response to this Court's Order to Show Cause dated April 11, 2007, giving the Respondents until May 3, 2007 to file a response to the Petition for Writ of Habeas Corpus filed by the Petitioner, John Stephen Coleman, Sr. In response, Respondents file the following answer, memorandum brief, and exhibits.

PROCEDURAL HISTORY

Document 7

- 1. On April 21, 2004, the Bullock County Grand Jury returned three indictments against Coleman for three counts of unlawful distribution of a controlled substance and two counts of selling, furnishing, or giving a controlled substance to a minor. State's Exhibit A. On November 15, 2004, Coleman entered pleas of guilty to the three counts of unlawful distribution of a controlled substance and two counts of selling to a minor. State's Exhibit B. On December 9, 2004, Coleman was sentenced to consecutive terms of imprisonment of twenty years for each count of unlawful distribution and ninety-nine years for selling to a minor. State's Exhibit C. His motion to set aside the guilty pleas, filed on December 17, 2004, was denied by operation of law on February 7, 2005. State's Exhibit D. The trial court issued a written order denying the motion to withdraw the guilty pleas on March 7, 2005. State's Exhibit E.
- Coleman filed his written notice of appeal on March 19, 2005. State's 2. Exhibit F. The Alabama Court of Criminal Appeals, however, issued a written order on November 10, 2005 dismissing Coleman's appeal for lack of jurisdiction. State's Exhibit G. The court found that Coleman's motion to withdraw guilty plea had been denied by operation of law on February 7, 2005 under Rule 24.4 of the Alabama Rules of Criminal Procedure and that his notice of appeal from such denial was due 42 days later, on March 21, 2005. Id. According to the case action

summary sheet, Coleman's notice of appeal was filed on March 22, 2005, more than 42 days after his motion to withdraw guilty plea had been denied, and was therefore untimely. Id. Although he dated his notice of appeal "March 19, 2005" which would have been timely, he failed to include a notarized statement that he used the prison mailing system as set out in Rule 4(c) of the Alabama Rules of Appellate Procedure or any equivalent method of verification such as witness signatures as was done in Ex parte Wright, 860 So. 2d 1253, 1254 (Ala. 2002). Id. Accordingly, his notice of appeal was untimely and his appeal was dismissed for lack of jurisdiction. Id. Coleman filed a petition for writ of certiorari with the Alabama Supreme Court on February 26, 2007, which that court struck as untimely under Rule 39(c)(2) of the Alabama Rules of Appellate Procedure. State's Exhibit H.

3. Coleman filed a petition for post-conviction relief in each of his three distribution cases pursuant to Rule 32 of the Alabama Rules of Criminal Procedure on October 3, 2006. State's Exhibit I. The circuit court dismissed this petition on December 7, 2006. Id. Coleman did not appeal this dismissal, alleging that he "did not know [he] could appeal any of them." Petition, p. 4.

COLEMAN'S FEDERAL HABEAS CLAIMS

- 3. On April 5, 2007, Coleman filed a writ of habeas corpus petition, raising the following claims:
 - (a) The state courts incorrectly ruled that Coleman's motion to withdraw his guilty plea was a day late without applying the mailbox rule;
 - (b) The state courts abused their discretion when Coleman filed a motion for mental evaluation while on mind altering drugs;
 - (c) Coleman's sentence "exceeds normal time given for such cases;"
 - (d) Coleman's guilty plea was entered unknowingly and involuntarily because he was not explained that his sentences would run consecutively instead of concurrently.

Petition, pp. 5-6.

4. On April 11, 2007, this Court entered an order requiring Respondents to show cause why Coleman's habeas corpus petition should not be granted, giving the Respondents until May 3, 2007 in which to respond.

ANSWER TO THE PETITION

5. Coleman's federal habeas corpus petition is untimely under the one-year statute of limitation provision of the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA).

Page 5 of 11

- 6. Coleman's federal habeas corpus petition is due to be denied because his claims have been procedurally defaulted.
- 7. Respondents deny Coleman is in custody in violation of the laws or constitution of the United States. Coleman's convictions and sentences were validly and constitutionally obtained.

MEMORANDUM BRIEF IN SUPPORT OF ANSWER

- 8. Coleman's petition is barred by the one-year statute of limitation set out by the AEDPA. According to 28 U.S.C.A. § 2244(d):
 - (1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of--
 - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - **(D)** the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Because Coleman's time for directly appealing his conviction and sentence expired on March 21, 2005 (42 days after his motion to withdraw guilty plea was denied by operation of law), he had one year in which to file a federal habeas petition or a state post-conviction petition pursuant to Rule 32 of the Alabama Rules of Criminal Procedure. His Rule 32 petition, filed on October 3, 2006, was filed more than one year after this date and did not effectively toll the running of the AEDPA one-year period. Indeed, the AEDPA limitation period itself expired on March 21, 2006. Because Coleman waited more than one year to file his federal habeas petition, it was untimely under 28 U.S.C.A. § 2244(d).

9. Coleman's claims, furthermore, have been procedurally defaulted. Petition, pp. 5-6. Before a habeas petitioner can seek federal review, he must exhaust his state court remedies. Title 28 U.S.C. §2254(b); Walker v. Zant, 693 F.2d 1087 (11th Cir. 1982). If the time to take advantage of such state court remedies has expired, however, the failure to exhaust such remedies becomes "a procedural default which will bar federal habeas relief, unless either the cause and prejudice or the fundamental miscarriage of justice exception is established." Smith v. Jones, 256 F. 3d 1135, 1138 (11th Cir. 2001).

Coleman failed to properly exhaust any claim by raising it in the Alabama Supreme Court. His direct appeal was dismissed for lack of jurisdiction and his petition for certiorari was stricken as untimely. Furthermore, he failed to appeal the dismissal of his Rule 32 petition. Federal habeas claims not included in a petition for discretionary review with the state's highest court are procedurally defaulted if the time for including such issues in such a petition has expired. O'Sullivan v. Boerckel, 526 U.S. 838, 840-842 (1999). Because Coleman has not filed a petition for certiorari before the Supreme Court of Alabama in compliance with Rule 39 and the time for seeking such relief has expired, his claims have been procedurally defaulted.

CONCLUSION

Based upon the foregoing authorities and facts, Coleman's federal habeas corpus petition should be dismissed with prejudice.

Respectfully submitted,

Troy King (KIN047) Attorney General By:

s/John M. Porter John M. Porter (ASB5818-P77J) Assistant Attorney General

EXHIBITS¹

- Excerpts from clerk's record in Coleman v. State, CR-04-1224 (Ala. Exhibit A Crim. App. 2005)(C. 4, 5; 1 Supp. C. 5-8)²
- Excerpts from clerk's record in Coleman v. State, CR-04-1224 (Ala. Exhibit B Crim. App. 2005)(C. 43-45; 1 Supp. C. 9-16)
- Excerpts from clerk's record in Coleman v. State, CR-04-1224 (Ala. Exhibit C Crim. App. 2005)(C. 52, 53; 2 Supp. C. 7-12)
- Excerpts from clerk's record in Coleman v. State, CR-04-1224 (Ala. Crim. App. 2005)(C. 54)
- Excerpts from clerk's record in Coleman v. State, CR-04-1224 (Ala. Exhibit E Crim. App. 2005)(C. 62)
- Excerpts from clerk's record in Coleman v. State, CR-04-1224 (Ala. Exhibit F Crim. App. 2005)(C. 63)
- Court of Criminal Appeals order in Coleman v. State, CR-04-1224 Exhibit G (Ala. Crim. App. Nov. 10, 2005), dismissing Coleman's appeal for lack of jurisdiction.

¹ The State has included only those exhibits it deems necessary for the determination of whether Coleman's claim is untimely and has been procedurally defaulted. Should this Court desire, transcripts, briefs, petitions, and orders of Coleman's direct appeal and Rule 32 proceedings are available.

² The record on appeal in this matter was supplemented twice by the Appellant. References in this brief to the two supplemental records will be "1 Supp." And "2 Supp.".

- Exhibit H Supreme Court of Alabama order in Case No. 1060843 striking petition for writ of certiorari and issuing certificate of judgment.
- Exhibit I Case Action Summary sheets from Alacourt.com of Coleman's Rule 32 petitions in Bullock County Circuit Court Case Nos. 46.60, 47.60, and 48.60.

CERTIFICATE OF SERVICE

I hereby certify that on this <u>3rd</u> day of May, 2007, I electronically filed the foregoing (including exhibits) with the Clerk of the Court using the CM/ECF system and I hereby certify that I have mailed by United States Postal Service the document (including exhibits) to the following non-CM/ECF participants: <u>John Stephen Coleman, Sr., AIS# 223809</u>, <u>Easterling Correctional Facility, 200 Wallace Dr., Clio, AL 36017</u>.

Respectfully submitted,

s/John M. Porter John M. Porter(ASB5818-P77J) Office of the Attorney General Alabama State House 11 South Union Montgomery, AL 36130-0152 Telephone: (334) 242-7300

Fax: (334) 242-2848

E-Mail: <u>JPorter@ago.state.al.us</u>

263694/107539-001

G. J. No. BS-04-076

A TRUE BILL, presented to the judge Presiding in open Court by the Foreperson of this Grand Jury, and filed in open

the Circuit Court of Bullock County Third Judicial Circuit

INDICTMENT

THE STATE OF ALABAMA

vs.

JOHN STEPHEN COLEMAN SR

Address: EASTERLING CORRECTIONAL FACILITY, CLIO, AL 36017 alias

None Reported

CHARGES:

CLASS

TYPE

UNLAWFUL DISTRIBUTION OF CONTROLLED SUBSTANCE(13A-12-211)

WITNESSES:

DAVID DUBOSE, BULLOCK COUNTY DRUG TASK FORCE, EUFAULA, AL 36027

Previous Bond \$ NONE Bail fixed at \$ NO BOND this 21st day of Azal, Zoo

THE STATE OF ALABAMA **Bullock COUNTY**

CIRCUIT COURT

2004

EXHIBIT

BOYD WHIGHAM DISTRICT ATTORNEY THIRD JUDICIAL CIRCUIT NO.:____

G. J. No.BS-04-076

THE STATE OF ALABAMA, Bullock COUNTY

Circuit Court - Third Judical Circuit

COUNT 1

The Grand Jury of said county charge that, before the finding of this indictment, JOHN STEPHEN COLEMAN SR, whose name to the Grand Jury is otherwise unknown, did, on or about January 20, 2004, while at or near Bullock County Sheriff Department, unlawfully sell, furnish, give away, deliver, or distribute a controlled substance, to-wit: Marijuana, and Susan Coleman did aid and abet John Stephen Coleman, Sr., by preparing, packaging, and placing the marijuana at a location that had been predetermined by John Stephen Coleman, Sr., for pickup by a work release inmate, and/or receive payments for the marijuana; John Stephen Coleman, Sr., did further aid and abet by locating a purchaser for the controlled substance and/or arranging for payment for the controlled substance and/or providing instruction for delivery of the controlled substance, in violation of Section 13A-12-211 of the Code of Alabama.

against the peace and dignity of the State of Alabama.

BOYD WHIGHAM
District Attorney
Third Judicial Circuit

Ben C. Reeves, Jr. Chief Asst. Dist. At

Previous Bond \$ NONE Bail fixed at \$NO BOND this 71 day of Aprel, Zong

THE STATE OF ALABAMA Bullock COUNTY

CIRCUIT COURT

2004

BOYD WHIGHAM
DISTRICT ATTORNEY
THIRD JUDICIAL CIRCUIT

G. J. No.BS-04-077

THE STATE OF ALABAMA, Bullock COUNTY Circuit Court - Third Judical Circuit

COUNT 1

The Grand Jury of said county charge that, before the finding of this indictment, JOHN STEPHEN COLEMAN, SR, whose name to the Grand Jury is otherwise unknown, did, on or about February 28, 2004, while at or near Alabama Highway Department, Union Springs, Bullock County, Alabama, unlawfully sell, furnish, give away, deliver, or distribute a controlled substance, to-wit: Marijuana, and Susan Coleman did aid and abet John Stephen Coleman, Sr., by preparing, packaging, and placing the marijuana at a location that had been predetermined by John Stephen Coleman, Sr., for pickup by a work release inmate, and/or receive payments for the marijuana; John Stephen Coleman, Sr., did further aid and abet by locating a purchaser for the controlled substance and/or arranging for payment for the controlled substance and/or providing instruction for delivery of the controlled substance, in violation of Section 13A-12-211 of the Code of Alabama,

COUNT 2

The Grand Jury of said county further charge that, before the finding of this indictment, JOHN STEPHEN COLEMAN, SR, whose name is otherwise unknown to the Grand Jury, a person over the age of 18 years, did on or about February 28, 2004, sell, furnish, or give a controlled substance, to-wit: Marijuana, to a person who has not attained the age of 18 years, to-wit: Levi Coleman and/or John Stephen Coleman, Jr., all of which was done to aid and abet the commission of the allegation contained in Count #1 of this indictment, in violation of Section 13A-12-215 of the Code of Alabama,

against the peace and dignity of the State of Alabama.

BOYD WHIGHAM
District Attorney

Third Judicial Circuit

Ben C. Reeves, Jr. Chief Asst. Dist. Attv.

G. J. No. BS-04-078

A TRUE BILL, presented to the judge Presiding in open Court by the Foreperson of this Grand Jury, and filed in open

of Bullock County Third Judicial Circuit

INDICTMENT

THE STATE OF ALABAMA

vs.

JOHN STEPHEN COLEMAN SR

Address: EASTERLING CORRECTIONAL FACILITY, CLIO, AL 36017 alias

None Reported .

CHARGES:

CLASS TYPE

UNLAWFUL DISTRIBUTION OF CONTROLLED SUBSTANCE(13A-12-211) SELLING, FURNISHING OR GIVING CONTROLLED SUBSTANCE TO MINOR(13A-12-215) \mathcal{A} \mathcal{F}

WITNESSES:

DAVID DUBOSE, BULLOCK COUNTY DRUG TASK FORCE, EUFAULA, AL 36027

Previous Bond \$ None Bail fixed at \$ NO BOND this 2/day of

Judge Presiding

THE STATE OF ALABAMA **Bullock COUNTY**

CIRCUIT COURT

2004

BOYD WHIGHAM DISTRICT ATTORNEY THIRD JUDICIAL CIRCUIT

THE STATE OF ALABAMA, Bullock COUNTY Circuit Court - Third Judical Circuit

COUNT 1

The Grand Jury of said county charge that, before the finding of this indictment, JOHN STEPHEN COLEMAN, SR, whose name to the Grand Jury is otherwise unknown, did, on or about March 3, 2004, while at or near Alabama Highway Department, Union Springs, Bullock County, Alabama, unlawfully sell, furnish, give away, deliver, or distribute a controlled substance, to-wit: Marijuana, and Susan Coleman did aid and abet John Stephen Coleman, Sr., by preparing, packaging, and placing the marijuana at a location that had been predetermined by John Stephen Coleman, Sr., for pickup by a work release inmate, and/or receive payments for the marijuana; John Stephen Coleman, Sr., did further aid and abet by locating a purchaser for the controlled substance and/or arranging for payment of the controlled substance and/or providing instruction for the delivery of the controlled substance, in violation of Section 13A-12-211 of the Code of Alabama,

COUNT 2

The Grand Jury of said county further charge that, before the finding of this indictment, JOHN STEPHEN COLEMAN, SR, whose name is otherwise unknown to the Grand Jury, a person over the age of 18 years, did on or about March 3, 2004, sell, furnish, or give a controlled substance, to-wit: Marijuana, to a person who has not attained the age of 18 years, to-wit: Levi Coleman and/or John Stephen Coleman, Jr., all of which was done to aid and abet the commission of the allegation contained in Count #1 of this indictment, in violation of Section 13A-12-215 of the Code of Alabama,

against the peace and dignity of the State of Alabama.

BOYD WHIGHAM
District Attorney

Third Judicial Circuit

Ben C. Reeves, Jr. Chief Asst. Dist. Atty.

<u>ω,</u> γ ¹			9
•	PLEA OF GUIL	TY	Case Number CC 04-040
0 (112011)		or District Court)	(count #, if applicable,
District	COURT OF	Bullock	ALARAMA
dhn 5t	Tenen Colem		inty)
		•	this is to inform you of your rights
of <u>Unlawful Dist</u> ea of guilty to 1391	hi bution of Controlled Subst this offense or □ to the crime of _	ance, which is a Class E	•
is a Class	Felony. The sentencing range	for the above crime(s) is set	out below:
(10) years and not m a fine not to exceed	ore than ninely-nine (99) years imprisonn \$20,000.	nent or life imprisonment in the sta	ate penitentiary, including hard labor
o (2) years and not m 0,000. For imprisonn	ore than twenty (20) years imprisonment nent not more than 3 years, confinement i	t in the state penitentiary, includir may be in county jail and sentenc	ng hard labor and may include a fine e may include hard labor for county.
e (1) year and one (1 to exceed \$5,000. Fo) day and not more than ten (10) years i or imprisonment not more than 3 years, co	imprisonment in the state peniter onfinement may be in county jail a	ntiary, including hard labor and may nd sentence may include hard labor
ou are further adv anyone who has b No	rised that the Alabama Habitual Offi een previously convicted of one or m One	ore felonies and who then is o	nded by Act 2000-759, provides convicted of a subsequent felony:
k 1 Day —10 Years tate Penitentiary	2—20 Years In State Penitentiary	10 — 99 Years or Life In State Penitentiary	Prior Felonies 15 — 99 Years or Life In State Penitentiary
2 — 20 Years tate Penitentiary	10 — 99 Years or Life In State Penitentiary Fine Up To \$20,000	15—99 Years or Life In State Penitentiary	Fine Up To \$20,000 Mandatory Life Imprisonment or any term of not less than 20 years Fine Up To \$20,000
tate Penitentiary	15 — 99 Years or Life In State Penitentiary Fine Up To \$20,000 — —	Life imprisonment or Any Tern Of Years Not Less Than 99 Fine Up To \$20,000	
e Penitentiary p To \$20,000	15—99 Years or Life in State Penitentiary Fine Up To \$20,000	Life imprisonment or Any Ten Of Years Not Less Than 99 Fine Up To \$20,000	Life Without Possibility of Parole Fine Up to \$20,000
se Of Firearm Or used or attempted Class A Felony, a	Deadly Weapon: §13A-5-6, Code d to be used in the commission of a term of imprisonment of not less the	of Alabama 1975, provides for felony." This section provide	or sentence enhancement
ug Sale Near Sch nee within a three (alty of five years in d shall not be susp ug Sale Near Hou olled substance wi years' imprisonm e suspended or pr les Of Controlled	ool: §13A-12-250, Code of Alabam (3) mile radius of a public or private aprisonment in a state correctional finended or probation granted. sing Project: §13A-12-270, Code within a three (3) mile radius of a publent in a state correctional facility for the cobation granted. Substance To Anyone Under 18:	school, college, university or acility for each violation. This of Alabama 1975, provides tilic housing project owned by each violation. This period \$\frac{813A-12-215}{60de} \text{ Code of Alabama}\$	other educational institution, is period of imprisonment is nat any person who is a housing authority must be of imprisonment is mandator, ama 1975, provides that
	OD (Habit District) ANT: After the cour of Un Quota Dist lea of guilty to the is a Class of (10) years and not me a fine not to exceed of (2) years and not me a fine not to exceed of (2) years and one (1) to exceed \$5,000. For imprison the (1) year and one (1) to exceed \$5,000. For imprison the (1) year and one (1) to exceed \$5,000. For imprison the (1) year and one (1) to exceed \$5,000. For imprison the (1) year and one (1) to exceed \$5,000. For imprison the (1) year and one (1) to exceed \$5,000. For imprison the (1) year and one (1) to exceed \$5,000. For imprison the (1) years of court, years or Eleony for which you are further adversely the Up To \$5,000 2—20. Years State Penitentiary the Up To \$10,000 —99 Years or Life the Penitentiary the Up To \$20,000 Obliowing enhancements of the Penitentiary to Sale Near Hour of the years in the years or the country of the years in the year	PLEA OF GUIL (Habitual Felony Offender — Circuit COURT OF District) ANT: After the court was informed that you wish to enter PENALTIES APPLICABLE TO YOU of Unlowful Distriction of Controlled Substites of guilty to this offense or to the crime of his a Class — Felony. The sentencing range in a class — Felony. The sentencing range in the costs of court, which may include the fees of any and the costs of court of the late of the costs of court of the late of the	COURTOF BULLOCK (Name of Court Coleman), S.C. Defendant ANT: After the court was informed that you wish to enter a plea of guilty in this case, PENALTIES APPLICABLE TO YOUR CASE of Union of Control of Australia, Which is a Class lea of guilty to Giftis offense or I to the crime of his a Class Felony. The sentencing range for the above crime(s) is set in (10) years and not more than ninety-nine (99) years imprisonment or life imprisonment in the state as fine not to exceed \$20,000. of (2) years and not more than twenty (20) years imprisonment in the state penitentiary, including (0,000, For imprisonment not more than 3 years, confinement may be in county jail and sentence (1) year and one (1) day and not more than ten (10) years imprisonment in the state peniter to exceed \$5,000. For imprisonment not more than 3 years, confinement may be in county jail and sentence (1) year and one (1) day and not more than ten (10) years imprisonment in the state peniter to exceed \$5,000. For imprisonment not more than 3 years, confinement may be in county jail and sentence (1) year and one (1) day and not more than ten (10) years imprisonment in the state peniter to exceed \$5,000. For imprisonment not more than 3 years, confinement may be in county jail and sentence (1) year and one (1) day and not more than ten (10) years imprisonment in the state peniter to evaced \$5,000. For imprisonment of the Alabama Crime Victims Compensation (1) years imprisonment of the Alabama Crime Victims Compensation (1) years imprisonment of the Alabama Crime Victims Compensation (1) years imprisonment of the Alabama Habitual Offender Act, \$13A-5-9, as ame ranyone who has been previously convicted of one or more felonies and who then is continued to the properties of the Alabama Habitual Offender Act, \$13A-5-9, as ame ranyone who has been previously convicted of one or more felonies and who then is continued to the years of the instate Penitentiary in State Penitentiary in State Penitentiary in State Penitentiary in State Penitentiary in St

☐ Drug Demand Reduction Assessment Act and Loss of Driving Privileges: Section 13A-12-281 provides that, if you are convicted of a violation of §13A-12-202 (criminal solicitation to commit controlled substance crime), 13A-12-203 (attempt to commit a controlled substance crime), 13A-12-204 (criminal conspiracy), 13A-12-211 (unlawful distribution of a controlled substance), 13A-12-212 (unlawful possession or receipt of a controlled substance), 13A-12-213 (unlawful possession of marijuana, 1st), 13A-12-215 (sale, furnishing, etc., of controlled substance by person over age 18 to person under age 18) or 13A-12-231 (drug trafficking), Code of Alabama 1975, you shall be assessed an additional fee of \$1,000 if you are a first-time offender or

lass A Felony and the punishment imposed shall not be suspended or probation granted.

Rev. 8/11/2000	EXPLANATION OF RIGHTS AND PLEA OF GUILTY (Habitual Felony Offender — Circuit or District Court)
penalty by the amount nroll in or successfully as in the second degree eriod of six months, whi Related Offenses: If w	of these sections. Collection of all or part of the penalty will be suspended if, with court approval, you ento pay for a part or all of the program costs. Upon successful completion of the program, you may apply actually paid by you for participation in the program. Any suspension of the penalty can be withdrawn by sursue or otherwise fail to complete an approved program. In addition, pursuant to §13A-12-214 (unlawfur, §32-5A-191(a)(3) or §32-5A-191(a)(4)(DUI offenses involving drugs), you will lose your privilege to drive shall be in addition to any suspension or revocation otherwise provided by law.
r the evaluation and an may be referred will be of cluding random drug ar me fees assessed if you lieu of the monetary pa	cost of program to which you are referred. Failure to submit to an evaluation or failure to complete any possidered a violation of any probation or parole you may be granted. You may also be required to attend alcohol testing or blood, urine and/or breath, tests and to pay a fee for this service. You may request a reindigent or for any portion of time you are financially unable to pay. Community service may be ment of fees.
solicitation thereof), sh	n §36-18-24: Section 36-18-25(e), Code of Alabama 1975, provides that, all persons convicted of any of or any offense contained in Chapter 6 of Title 13A - offenses involving danger to the person - or all be ordered by the court to submit to the taking of a DNA sample or samples. in any court of this state for drug possession, drug sale, drug trafficking, or drug paraphernalia offenses usive, Code of Alabama 1975, an additional fee of \$100.00 will be assessed pursuant to §36-18-7, Code
If you do answer questo enter, and continue to digry. The jury would ne right to be present, y accuser(s) and all the Sand their testimony reques can require you to do nation. If you decide no verything he/she can hole to trial, you come to ent evidence to convince. If the State fails to reful, you are waiving indiced with the court. LTY, THERE WILL BE ENTATION BY AN ATTIVING GUILTY PLEAR QUESTIONS ABOUT Y	RIGHTS YOU HAVE AND WAIVER OF YOUR RIGHTS and the Constitution and laws of the State of Alabama, you have a right to remain silent and you may self. Your attorney cannot disclose any confidential talks he/she has had with you. You are not required tions knowing that you have a right to remain silent, you will have waived this right. assert, a plea of "Not Guilty" or "Not Guilty by Reason of Mental Disease or Defect," and have a public lecide your guilt or innocence based upon the evidence presented before them. If you elect to proceed you would have the right to have your attorney present to assist you, you would have the right to confront sate's witnesses, you would have the right to subpoena witnesses to testify on your behalf and to have ired by the court, and you would have the right to take the witnesses to testify, but only if you his. If you elect to testify, you can be cross examined by the State, just as any other witness is to testify, no one but your attorney will be allowed to comment about that fact to the jury. Your norably and reasonably do to see that you obtain a fair and impartial trial. Sourt presumed to be innocent. This presumption of innocence will follow you throughout the trial until the tipury (or the court if the trial is non-jury) of your guilt beyond a reasonable doubt. You have no neet its burden, you would be found not guilty. If you are entering a guilty plea to a charge for which you ment by a grand jury and you will be pleading guilty to a charge preferred against you by a District NO TRIAL. YOU WILL BE WAIVING THE RIGHTS OUTLINED ABOVE, EXCEPT YOUR RIGHTS DRNEY. THE STATE WILL HAVE NOTHING TO PROVE, AND YOU WILL BE CONVICTED AND YOU WILL, HOWEVER, HAVE THE RIGHT TO APPEAL. DUR RIGHTS OR THE CONSEQUENCES OF PLEADING GUILTY, PLEASE LET THE COURT I'LL BE MADE.
	Judge
nd intelligently waiving t	ATTORNEY'S CERTIFICATE efendant by me; that I explained the penalty or penalties involved with the defendant; that I discussed the set of pleading guilty; and that, in my judgment, the defendant understands the same and that he/she is/her rights and entering a voluntary and intelligent plea of guilty. I further certify to the court that I plead guilty and to my knowledge no one else has done so
	penalty by the amount a nroll in or successfully penalty in or successfully penalty in the second degree) eriod of six months, whice Related Offenses: If you are dupon the results of any may be referred will be cocluding random drug and he fees assessed if you are fees assessed if you are fees assessed if you are convicted 211 to 13A-12-260, including the fees against yours. If you are convicted 211 to 13A-12-260, including the fees against yours of the United States evidence against yours of the fees again

fully of pleading guilty, that I am not under the influence of any drugs, medicines, or alcoholic beverages; and I have not been threatened or abused or offered any inducement, reward, or hope of reward to plead guilty other than the terms of the plea agreement which will be stated on the record.

I further state to the court that I am guilty of the charge to which I am entering a plea of guilty, that I desire to plead guilty, that I made up my own mind to plead guilty, and that I knowingly, intelligently, and voluntarily waive my right to a trial in this case. I further state to the court that I am satisfied 'h my attorney's services and his/her handling of my case.

Date

IN THE CIRCUIT COURT OF BULLOCK COUNTY, ALABAMA

STATE OF ALABAMA,)	
Plaintiff,)	
vs.)	CASE NO. CC-2004-46
JOHN STEPHEN COLEMAN, SR.,)	
Defendant.)	

ORDER

On this day appeared the Defendant with his attorney, Thomas Frank Kelly, Jr., with the State represented by District Attorney Boyd Whigham; and, with the consent and agreement of his attorney, the Defendant withdrew his plea of not guilty and entered a plea of guilty to the charge of Unlawful Distribution of a Controlled Substance. Before accepting Defendant's plea of guilty, the Court advised the Defendant of all of his constitutional rights with the colloquy being taken down by the court reporter. The Court accepted Defendant's plea of guilty and adjudged the Defendant to be guilty of the crime of Unlawful Distribution of a Controlled Substance.

IT IS HEREBY ORDERED that a sentencing hearing shall be held before this Court on December 9, 2004, at 8:30 a.m., at the Bullock County Courthouse in Union Springs, Alabama. The Probation and Parole Officer is hereby directed to prepare and submit to the Court a presentence investigation report and shall provide copies of said report to Defendant's attorney and the District Attorney.

DONE AND ORDERED this 15th day of November, 2004.

Burt Smithart, Presiding Circuit Judge Third Judicial Circuit of Alabama

9
I

State of Alabama bified Judicial System

EXPLANATION OF RIGHTS AND

Case Number

5	Rev. 8/11/2000	PLEA OF GUILTY (Habitual Felony Offender — Circuit or District Court)	
Form CR-52 (front)	Rev. 0/11/2000		(count #, if applicable)
INTHE	ircuit	courtof_Bullock	, ALABAMA
	(Circuit or D	(Name of County)	
STATEOFALA	BAMA v. <u>)</u>	hn Stephen Coleman, Se.	
	· · · · · · · · · · · · · · · · · · ·	Defendant	_
as a criminal defend You are charge	dant. ed with the crime of esire to enter a plea	T: After the court was informed that you wish to enter a plea of guilty in this case, this is to in PENALTIES APPLICABLE TO YOUR CASE Selling, Turnish or Girlus Cortical Cubstines to Minor, which is a Class Felong of guilty to this offense or to the crime of Felong. The sentencing range for the above crime(s) is set out below	y. The court has been
FELONY.			
Class A		0) years and not more than ninety-nine (99) years imprisonment or life imprisonment in the state penitenti fine not to exceed \$20,000.	ary, including hard labor
Class B		 years and not more than twenty (20) years imprisonment in the state penitentiary, including hard labo For imprisonment not more than 3 years, confinement may be in county jail and sentence may include 	
Class C		(1) year and one (1) day and not more than ten (10) years imprisonment in the state penitentiary, include exceed \$5,000. For imprisonment not more than 3 years, confinement may be in county jail and sentence	

You will also be ordered to pay the costs of court, which may include the fees of any appointed attorney, and restitution if there is any. You will also be ordered to pay an additional monetary penalty for the use and benefit of the Alabama Crime Victims Compensation Commission of not less than \$50 and not more than \$10,000 for each felony for which you are convicted.

As a reported habitual offender, you are further advised that the Alabama Habitual Offender Act, §13A-5-9, as amended by Act 2000-759, provides e following enhanced punishment for anyone who has been previously convicted of one or more felonies and who then is convicted of a subsequent felony:

Prior Felonies ->	No	One	Two	Three +
This offense	Prior Felonies	Prior Felony	Prior Felonies	Prior Felonies
Class C Felony	1 Yr. & 1 Day —10 Years	2—20 Years	10 — 99 Years or Life	15 — 99 Years or Life
	In State Penitentiary	In State Penitentiary	In State Penitentiary	In State Penitentiary
	Fine Up To \$5,000	Fine Up To \$10,000	Fine Up To \$20,000	Fine Up To \$20,000
Class B Felony	2 — 20 Years	10 — 99 Years or Life	15— 99 Years or Life	Mandatory Life Imprisonment or
	In State Penitentiary	In State Penitentiary	in State Penitentiary	any term of not less than 20
	Fine Up To \$10,000	Fine Up To \$20,000	Fine Up To \$20,000	years Fine Up To \$20,000
Class A Felony (No prior convictions for a Class A Felony)	10 — 99 Years or Life In State Penitentiary Fine Up To \$20,000	15 — 99 Years or Life. In State Penitentiary Fine Up To \$20,000	Life imprisonment or Any Term Of Years Not Less Than 99 Fine Up To \$20,000	Mandatory Imprisonment For Life or Life Imprisonment Without Possibility of Parole Fine Up To \$20,000
(One or more prof	10'—99 Years or Life	15—99 Years of Life	Life imprisonment or Any Term	Mandatory Imprisonment For
	In State Penitentiary	In State Perifentiary	Of Years Not Less Than 99	Life Without Possibility of Parole
	Fine Up To \$20,000	Fine Up To \$20,000	Fine Up To \$20,000	Fine Up to \$20,000

This crime is also subject to the following enhancements or additional penalties as provided by law: (Provisions Checked Apply To Your Case) ☐ Enhanced Punishment For Use Of Firearm Or Deadly Weapon: §13A-5-6, Code of Alabama 1975, provides for sentence enhancement where a "firearm or deadly weapon was used or attempted to be used in the commission of a felony." This section provides for the following punishment in such event: For the commission of a Class A Felony, a term of imprisonment of not less than 20 years; for the commission of a Class B or Class C Felony, a term of imprisonment of not less than 10 years;

Enhanced Punishment for Drug Sale Near School: §13A-12-250, Code of Alabama 1975, provides that any person who is convicted of unlawfully selling any controlled substance within a three (3) mile radius of a public or private school, college, university or other educational institution, must be punished by an additional penalty of five years imprisonment in a state correctional facility for each violation. This period of imprisonment is mandatory and the punishment imposed shall not be suspended or probation granted.

☐ Enhanced Punishment for Drug Sale Near Housing Project: §13A-12-270, Code of Alabama 1975, provides that any person who is convicted of unlawfully selling any controlled substance within a three (3) mile radius of a public housing project owned by a housing authority must be inished by an additional penalty of five years' imprisonment in a state correctional facility for each violation. This period of imprisonment is mandatory I the punishment imposed shall not be suspended or probation granted.

☐ Enhanced Punishment For Sales Of Controlled Substance To Anyone Under 18: §13A-12-215, Code of Alabama 1975, provides that anyone convicted of selling, furnishing, or giving away a controlled substance to one who has not yet attained the age of 18 years, shall be guilty of a lass A Felony and the punishment imposed shall not be suspended or probation granted.

Drug Demand Reduction Assessment Act and Loss of Driving Privileges: Section 13A-12-281 provides that, if you are convicted of a violation of \$13A-12-202 (criminal solicitation to commit controlled substance crime), 13A-12-203 (attempt to commit a controlled substance crime), 13A-12-204 (criminal conspiracy), 13A-12-211(unlawful distribution of a controlled substance), 13A-12-212 (unlawful possession or receipt of a controlled substance), 13A-12-213 (unlawful possession of marijuana, 1st), 13A-12-215 (sale, furnishing, etc., of controlled substance by person over age 18 to person under age 18) or 13A-12-231(drug trafficking), Code of Alabama 1975, you shall be assessed an additional fee of \$1,000 if you are a first-time offender or

	Form CR-52 (back) Rev. 8/11/2000 PVDI ANATION OF DAGE
٠.	(Habitual Felony Offender Circuit Pi
	OUD if you are a repeat offender under one of these sections. Collection of all or part of the penalty will be suspended if, with court approval, you enter drug rehabilitation program and if you agree to pay for a part or all of the program costs. Upon successful completion of the program, you may apply the court to reduce the penalty by the amount actually paid by you for participation in the program. Any suspension of the penalty can be withdrawn by the court if you fail to enroll in or successfully pursue or otherwise fail to complete an approved program. In addition, pursuant to §13A-12-214 (unlawful a motor vehicle for a period of six months, which shall be in addition to any suspension or revocation otherwise provided by law. Alcohol/Drug Related Offenses: If you are convicted of an alcohol or drug-related offense, you will be required to undergo an evaluation for substance abuse. Based upon the results of any such evaluation, you will be required to complete the recommended course of education and/or treatment and to pay for the evaluation and any cost of program to which you are referred. Failure to submit to an evaluation or failure to complete any monitoring sessions, including random drug and alcohol testing or blood, urine and/or breath, tests and to pay a fee for this service. You may request a ordered by the court in lieu of the monetary payment of fees. DNA Samples for Criminal Offenses in §36-18-24: Section 36-18-25(e), Code of Alabama 1975, provides that, all persons convicted of any of attempt, conspiracy, or solicitation thereof), shall be ordered by the court to submit to the taking of a DNA sample or samples.
	as defined in §§13A-12-211 to 13A-12-260, inclusive, Code of Alabama 1975, an additional fee of \$100.00 will be assessed pursuant to §36-18-7, Code Other:
	Outet.
	RIGHTS YOU HAVE AND WAIVER OF YOUR RIGHTS
t t t t t t t t t t t t t t t t t t t	Under the Constitution of the United States and the Constitution and laws of the State of Alabama, you have a right to remain silent and you may not be compelled to give evidence against yourself. Your attorney cannot disclose any confidential talks he/she has had with you. You are not required to answer any questions. If you do answer questions knowing that you have a right to remain silent, you will have waived this right. You have the right to enter, and continue to assert, a plea of "Not Guilty" or "Not Guilty by Reason of Mental Disease or Defect," and have a public obtain, you would have the right to be present, you would decide your guilt or innocence based upon the evidence presented before them; If you elect to proceed or trial, you would have the right to be present, you would have the right to subpoena witnesses to testify on your behalf and to have the right to assist you, you would have the right to retain a court and their testimony required by the court, and you would have the right to take the witness stand and to festify, but only if you have to do so, as no one can require you to do this. If you elect to testify, you can be cross examined by the State, just as any other witness is cted to cross examination. If you decide not to testify, no one but your attorney will be allowed to comment about that fact to the jury. Your lif you elect to proceed to trial, you come to court presumed to be innocent. This presumption of innocence will follow you throughout the trial until you cled to proceed to trial, you come to court presumed to be innocent. This presumption of innocence will follow you throughout the trial until yourden of proof in this case. If the State fails to meet its burden, you would be found not guilty. If you are entering a guilty plea to a charge for which you are not yet been indicted, you are waiving indictment by a grand jury and you will be pleading guilty to a charge preferred against you by a District in Ir You PLEAD Guillty, There Will Be No TRIAL. You Will Be Walving The Righ
	ATTORNEY'S CERTIFICATE
in is ha	I certify that the above was fully read to the defendant by me; that I explained the penalty or penalties involved with the defendant; that I discussed detail the defendant's rights and the consequences of pleading guilty; and that, in my judgment, the defendant understands the same and that he/she knowingly, voluntarily, and intelligently waiving his/her rights and entering a voluntary and intelligent plea of guilty. I further certify to the court that I way forced or induced the defendant to plead guilty and to my knowledge no one else has done so. I I I I I I I I I I I I I I I I I I I
ful ma be	DEFENDANT'S STATEMENT OF WAIVER OF RIGHTS AND PLEA OF GUILTY I certify to the court that my attorney has read and explained the matters set forth above; that my rights have been discussed with me in detail and y explained; that I understand the charge or charges against me; that I understand my rights, the punishment or punishments provided by law as they apply to my case, and I understand the consequences of pleading guilty; that I am not under the influence of any drugs, medicines, or alcoholic are agreement which will be stated on the record

full ma bev

I further state to the court that I am guilty of the charge to which I am entering a plea of guilty, that I desire to plead guilty, that I made up my own mire to plead guilty, and that I knowingly, intelligently, and voluntarily waive my right to a trial in this case. I further state to the court that I am satisfied waterney's services and his/her handling of my case.

Date

State of Alabama Case Number EXPLANATION OF RIGHTS AND rified Judicial System PLEA OF GUILTY (Habitual Felony Offender - Circuit or District Court) form CR-52 (front) (count #, if applicable) INTHE _ABAMA Defendant TO THE ABOVE-NAMED DEFENDANT: After the court was informed that you wish to enter a plea of guilty in this case, this is to inform you of your rights as a criminal defendant. PENALTIES APPLICABLE TO YOUR CASE You are charged with the crime of Unlawful Dist. Controlled Substaurn. informed that you desire to enter a plea of guilty to this offense or to the crime of Felony. The sentencing range for the above crime(s) is set out below: which is a Class FELONY Not less than ten (10) years and not more than ninety-nine (99) years imprisonment or life imprisonment in the state penitentiary, including hard labor Class A and may include a fine not to exceed \$20,000. Not less than two (2) years and not more than twenty (20) years imprisonment in the state penitentiary, including hard labor and may include a fine not to exceed \$10,000. For imprisonment not more than 3 years, confinement may be in county jail and sentence may include hard labor for county. Class B Class C Not less than one (1) year and one (1) day and not more than ten (10) years imprisonment in the state penitentiary, including hard labor and may include a fine not to exceed \$5,000. For imprisonment not more than 3 years, confinement may be in county jail and sentence may include hard labor

You will also be ordered to pay the costs of court, which may include the fees of any appointed attorney, and restitution if there is any. You will also be ordered to pay an additional monetary penalty for the use and benefit of the Alabama Crime Victims Compensation Commission of not less than \$50 and not more than \$10,000 for each felony for which you are convicted.

As a reported habitual offender, you are further advised that the Alabama Habitual Offender Act, §13A-5-9, as amended by Act 2000-759, provides a following enhanced punishment for anyone who has been previously convicted of one or more felonies and who then is convicted of a subsequent felony:

Prior Felonies ->	No	One	. Two	Three +
This offense	Prior Felonies	Prior Felony	Prior Felonies	Prior Felonies
Class C Felony	1 Yr. & 1 Day —10 Years	2—20 Years	10 — 99 Years or Life	15 — 99 Years or Life
	In State Penitentiary	In State Penitentiary	In State Penitentiary	In State Penitentiary
	Fine Up To \$5,000	Fine Up To \$10,000	Fine Up To \$20,000	Fine Up To \$20,000
Class B Felony	2 — 20 Years	10 — 99 Years or Life	15—99 Years or Life	Mandatory Life Imprisonment or
	In State Penitentiary	In State Penitentiary	In State Penitentiary	any term of not less than 20
	Fine Up To \$10,000	Fine Up To \$20,000	Fine Up To \$20,000	years Fine Up To \$20,000
Class A Felony	10 — 99 Years or Life	15 — 99 Years or Life	Life imprisonment or Any Term	Mandatory Imprisonment For Life or Life Imprisonment Without Possibility of Parole Fine Up To \$20,000
(No prior convictions for a	In Stale Penitentiary	In State Penitentiary	Of Years Not Less Than 99	
Class A Felony)	Fine Up To \$20,000	Fine Up To \$20,000	Fine Up To \$20,000	
Class A Felony (One or more prior) convictions for any Cless A Felony)	10 — 99 Years or Life.	15—99 Years of Life	SLife imprisonment or Any Term	Mandatory Imprisonment For
	In State Penitentiary	in State Penitentiary	TOF Years Not Less Than 89	Life Without Possibility of Parole
	Fine Up To \$20,000	Fine Up To \$20,000	Eine Up 16:\$20,000	Fine Up to \$20,000

This crime is also subject to the following enhancements or additional penalties as provided by law: (Provisions Checked Apply To Your Case) Enhanced Punishment For Use Of Firearm Or Deadly Weapon: §13A-5-6, Code of Alabama 1975, provides for sentence enhancement

where a "firearm or deadly weapon was used or attempted to be used in the commission of a felony." This section provides for the following punishment in such event: For the commission of a Class A Felony, a term of imprisonment of not less than 20 years; for the commission of a Class B or Class C Felony, a term of imprisonment of not less than 10 years;

☐ Enhanced Punishment for Drug Sale Near School: §13A-12-250, Code of Alabama 1975, provides that any person who is convicted of unlawfully selling any controlled substance within a three (3) mile radius of a public or private school, college, university or other educational institution, must be punished by an additional penalty of five years imprisonment in a state correctional facility for each violation. This period of imprisonment is mandatory and the punishment imposed shall not be suspended or probation granted.

Enhanced Punishment for Drug Sale Near Housing Project: §13A-12-270, Code of Alabama 1975, provides that any person who is convicted of unlawfully selling any controlled substance within a three (3) mile radius of a public housing project owned by a housing authority must be nished by an additional penalty of five years' imprisonment in a state correctional facility for each violation. This period of imprisonment is mandatory the punishment imposed shall not be suspended or probation granted.

☐ Enhanced Punishment For Sales Of Controlled Substance To Anyone Under 18: §13A-12-215, Code of Alabama 1975, provides that anyone convicted of selling, furnishing, or giving away a controlled substance to one who has not yet attained the age of 18 years, shall be guilty of a lass A Felony and the punishment imposed shall not be suspended or probation granted.

☐ Drug Demand Reduction Assessment Act and Loss of Driving Privileges: Section 1.3A-12-281 provides that, if you are convicted of a violation of \$13A-12-202 (criminal solicitation to commit controlled substance crime), 13A-12-203 (attempt to commit a controlled substance crime), 13A-12-204 (criminal conspiracy), 13A-12-211(unlawful distribution of a controlled substance), 13A-12-212 (unlawful possession or receipt of a controlled substance). 13A-12-213 (unlawful possession of marijuana, 1st), 13A-12-215 (sale, furnishing, etc., of controlled substance by person over age 18 to person under age 18) or 13A-12-231(drug trafficking), Code of Alabama 1975, you shall be assessed an additional fee of \$1,000 if you are a first-time offender or

	Case 2	2:07-cv-00294	-MHT-SRW	Document 7-3	Filed 05/03/2007	Page 7 of 11
	Form CR-52 (back)	Rev. 8/11/2000	· · · · · · · · · · · · · · · · · · ·	·		•
	1			EXPLANATION	OF RIGHTS AND PLEA (· ·
	\$2,000 if you are a re	eneat offender und		(Habitual Felo	Dr RIGHIS AND PLEA (OF GUILTY Court) ed if, with court approval, you ent
	a drug rehabilitation	program and if you a	one of these section		- ii vait of District t	Ourt)
	he court to reduce the	ne penalty by the am	onut actually baid Property	t or all of the program cos	its. Upon successful be suspend	ed if, with court approval, you entended in the program, you may apply the penalty can be withdrawn by the penalty can be with
- 1	D00000================================		AUX ARIZING UL ULUGU	11 a a E - 11 1	PIVUIAIII ANVEIICES	. Createrity you may analys
- 1	a motor vehicle for a	noticed at	9,667, 302-0A-191(a	1(3) OF 632 EA 4044	Proved Program. In addition of	The Withdrawn Price
	The state of the s		willon stiall be in ac	idition to any	or orienses involving drugel is	(Unlawful)
		Chellaga Chellaga:	II VOU are convicted	-f -	or revocation otherwise provide	The privilege to drive
- 1						
- 1	program to which you	may be referred will	be considered a visit	n to which you are referred	or revocation otherwise provide ted offense, you will be required a complete the recommended c d. Failure to submit to an evalu	ourse of education and/or
	Waiver of part of all of	ncluding random drug	and alcohol testing	ation of any probation or p	parole you may be granted Value	d by law, If to undergo an evaluation for ourse of education and/or lation or failure to complete any amay also be required.
	Ordered by the court in	flow of the	you are indigent or fi	Of any portion in the	raul, lesis and to pay a fee for t	his are be required to attend
	TI DNA C- 1	monetary	payment of tees.	, , 0.2	are iniancially unable to nav o	om
	the offenses and a time	To official Offens	es in \$36-18-24. ca	action ac an ana		ocivice may be
	attempt, conspiracy, or	solicitation thereof)	shall be and offense	contained in Chapter 6 of	of Alabama 1975, provides that Title 13A - offenses involving d taking of a DNA sample or san on, drug sale, drug to f	, all persons convicted of all
	☐ Drug Possessi	on: If you are convic	ted in any court of the	the court to submit to the	taking of a DNA sample	anger to the person - or
1:	as deilhed in 9913A-12- Of Alahama 1975	-211 to 13A-12-260, i	inclusive, Code of A	labama 1075	on, drug sale, drug trafficking	iples.
	Other:	•		abbina 1975, an additions	Title 13A - offenses involving in taking of a DNA sample or san on, drug sale, drug trafficking, on al fee of \$100.00 will be assessing.	ed pursuant to some offenses
1 :						20 parsuant to \$36-18-7, Code
1						
	lindarit - O		RIGHTS YOU L	AVE AUG		
l in	Onder the Constitut	ion of the United Sta	tes and the Constitu	tion and laws and	OUR RIGHTS of Alabama, you have a right to fidential talks he/she has had w in silent, you will have waived to	
to	answer any questions	If you do a	urself. Your attorney	Cannot disclose have	of Alabama, you have a right to) remain silont /
1 :.	You have the right to	enter, and continue	estions knowing tha	t you have a right to rema	of Alabama, you have a right to fidential talks he/she has had w in silent, you will have waived to by Reason of Mental Disease of the evidence presented before t	ith you. You are not require
tri	al before a duly selected	d jury. The jury woul	d decide your active	"Not Guilty" or "Not Guilty	by Reason of Montal B:	nis right.
20	tilat, you would have th	e right to be present.	VOII Would have the	r innocence based upon the	he evidence presented by	or Defect," and have a public
the	oir attacks	and an the	State's witnesses.	The second of the second	Y Diesent to acciet you	" You elect to proceed
chi	oco to do	The men resultions to	Quired by the court	the tight (c	SUDDOena witnesson to to the	" Have the right to confront
sul	pjected to cross examin	ation. If you decide i	o this. If you elect to	testify, you can be cross	ght to take the witness to testify examined by the State, just as allowed to comment about that it btain a fair and impartial trial	nd to testify, but only if you
	Mon alast t	TO WIND HEISTING CAN P	ionorably and reaso.	and the second will be a	allowed to comment about the	and williess is.
++	Total Cicot to proceed	i to triat, you come to	COURT Dresumed to	facily on to see that you of	btain a fair and important	lact to the jury. Your
Dille.	don of a fi - fit :	- 10 0011411	ive the lim tor the a	and 10 11	PUOL OF HUDCANCE WILL FOR	Ou throughout the interest of
have	e not yet been indicted,	YOU are waiving indi	meet its burden, you	would be found not quite	of your guilt beyond a reasonal y. If you are entering a guilty pl g guilty to a charge preferred ag	ole doubt. You have so
Atto	rney's Information filed	with the court.	outlent by a grand ju	ry and you will be pleading	g ouilty to a charge and	ea to a charge for which your
DEI	IF YOU PLEAD GUILT	Y, THERE WILL BE	NO TRIAL YOUR	W. L. D	s 34ms to a charge preferred ag	rainst you by a District
SEN	TENCED BACED ON	TATION BY AN ATT	ORNEY, THE STA	TE WAIVING THE R	RIGHTS OUTLINED ABOVE E	YCERTYCH
	IF YOU HAVE ANY ON	TOUR GUILTY PLE	4. YOU WILL, HOW	TE WILL HAVE NOTHING VEVER, HAVE THE RIGH THE CONSEQUENCES OF	TO PROVE, AND YOU WILL T TO APPEAL. F PLEADING GUILTY, PLEAS	BE CONVICTED AND
KNO	W NOW AND FURTHE	R EXPLANATION 1	OUR RIGHTS OR T	HE CONSEQUENCES O	I IO APPEAL.	SHVICTED AND
	11-15-04	WALION A	ALL BE MADE.	11	FLEADING GUILTY, PLEAS	E LET THE COURT
Date	11-13-04			Kof 2	5/1/	1
===			•	Judge ·	The state of the s	
. !	certify that the above w	as fully read to the d	ATTORI	NEY'S CERTIFICATE	r penalties involved with the del nt, the defendant understands the	
1 deta	all the defendant's rights	and the consequent	ces of pleading quits	I explained the penalty of	r penalties involved with the del nt, the defendant understands the ligent plea of guilty. I further re	
ave i	miligly, voluntarily, and i	ntelligently waiving h	is/her rights and ent	y, and that, in my judgmer	r penalties involved with the del nt, the defendant understands the ligent plea of guilty. I further ce has done son	endant; that I discussed
16		sed the defendant to	plead guilty and to n	ering a voluntary and intelling knowledge no one else	ligent plea of guilty. I further ce	edify to the court the
11/	15/04		•	July 10 one else	has done so	to the wait that I
ate				- Mous 8	7001()_	1
				Attorney		
. 1.0	ertify to the court that m	DEFENDANT'S	STATEMENT OF V	YAIVER OF RIGHTS AND	PLEA OF GUILTY t my rights have been discusse punishment or punishments	
ly exp	plained; that I understan	d the charge or sha	and explained the m	atters set forth shove the	PLEA OF GUILTY	
зу ар	ply to my case, and I un	strange of chart	Jes against master		LILLY FIGHTS have been discussed	d with me in detail and
2 200	Company which will be the	uneatened or abuse	d or offered and :- d	ding, that I aim not under	the influence of any days	provided by law as they
I #0	thorate in the	ared on the record.	9	accinicit, reward, or hope	Of reward to plead quilly at	donnes, or alcoholic
id to	plead guilty, and that I be	nat I am guilty of the	charge to which I an) entering a ala-	of reward to plead guilty other in that I desire to plead guilty, that is case. I further state to the contract of the contrac	nan the terms of the
ı my :	attorney's services and I	his/her handline - (, and voluntarily wai	ve my right to a total in the	that I desire to plead guilty, that	it I made un mu au-
if	7~	in the manufacture of m	y case.	,	s pase. I further state to the co	urt that I am satisfied
_1	101	•	*	/	1)	,

if applicable)

Case 2:07-cv-	00294-MHT-SR	W Document 7-3	Filed 05/03/2007	Page 8 of 11
	· *)			į.
State of Alabama nified Judicial System Form CR-52 (front) Rev. 8/11	(77.1)	LANATION OF RIG PLEA OF GUILT al Felony Offender — Circuit on	HIS AND C	ase Number COHOLS Count
INTHE Circui			Sullock (Name of County	(count #, if applicable , ALABAMA
STATE OF ALABAMA v.	John Sta	SCHEN COLEMA Defend	IN, SR	
as a criminal defendant. You are charged with the criming that you desire to enter	PE ime of Unkautal Dis	was informed that you wish to enter NALTIES APPLICABLE TO YOUR STORY STORY STORY THE SENTENCE OF THE STORY THE SENTENCE OF THE SENTENCING TANGE	CASE , which is a Class <u>B</u>	Felony. The court has been
FELONY.				,
and may in	clude a fine not to exceed \$		N	·
not to exce	ed \$10,000. For imprisonme	re than twenty (20) years imprisonment i ent not more than 3 years, confinement m	ay be in county jail and sentence m	nay include hard labor for county.
include a fir	ne not to exceed \$5,000. Fo	day and not more than ten (10) years in rimprisonment not more than 3 years, cor	nfinement may be in county jail and	sentence may include hard labor
be ordered to pay an additional n and not more than \$10,000 for ea	nonetary penalty for the ach felony for which you der, you are further advi	nich may include the fees of any appuse and benefit of the Alabama Crirare convicted. sed that the Alabama Habitual Offeen previously convicted of one or mo	ne Victims Compensation Cor nder Act, §13A-5-9, as amend	nmission of not less than \$50 ed by Act 2000-759, provides
Prior Felonies	No Prior Felonies	One Prior Felony	Two Prior Felonies	Three + Prior Felonies

Prior Felonies ->	No	. One	Two	Three +
This offense	Prior Felonies	Prior Felony	Prior Felonies	Prior Felonies
Class C Felony	1 Yr. & 1 Day —10 Years	2—20 Years	10 — 99 Years or Life	15 — 99 Years or Life
	In State Penitentiary.	In State Penitentiary	In State Penitentiary	In State Penitentiary
	Fine Up To \$5,000	Fine Up To \$10,000	Fine Up To \$20,000	Fine Up To \$20,000
Class B Felony	2 — 20 Years	10 — 99 Years or Life	15—99 Years or Life	Mandatory Life Imprisonment or
	In State Penitentiary	In State Penitentiary	In State Penilentiary	any term of not less than 20
	Fine Up To \$10,000	Fine Up To \$20,000	Fine Up To \$20,000	years Fine Up To \$20,000
Class A Felony (No prior convictions for a Class A Felony)	10 — 99 Years or Life In State Penitentiary Fine Up To \$20,000	15 — 99 Years or Life In State Penitentiary Fine Up To \$20,000	Lifé imprisonment or Any Term Of Years Not Less Than 99 Fine Up To \$20,000	Mandatory Imprisonment For Life or Life Imprisonment Without Possibility of Parole Fine Up To \$20,000
Class A Felony (One or more prior) convictions for any Class A Felony)	10'—99 Years or Life	15—99 Years or Life	Life imprisonment or Any Term	Mandatory Imprisonment For
	in State Pententiary	In State Penitentiary	Of Years Not Less Than 89	Life Without Possibility of Parole
	Fine Up To \$20,000	Fine Up To \$20,000	Fine Up To \$20,000	Fine Up to \$20,000

This crime is also subject to the following enhancements or additional penalties as provided by law: (Provisions Checked Apply To Your Case) ☐ Enhanced Punishment For Use Of Firearm Or Deadly Weapon: §13A-5-6, Code of Alabama 1975, provides for sentence enhancement where a "firearm or deadly weapon was used or attempted to be used in the commission of a felony." This section provides for the following punishment in such event: For the commission of a Class A Felony, a term of imprisonment of not less than 20 years; for the commission of a Class B or Class C Felony, a term of imprisonment of not less than 10 years;

☐ Enhanced Punishment for Drug Sale Near School: §13A-12-250, Code of Alabama 1975, provides that any person who is convicted of unlawfully selling any controlled substance within a three (3) mile radius of a public or private school, college, university or other educational institution, must be punished by an additional penalty of five years imprisonment in a state correctional facility for each violation. This period of imprisonment is mandatory and the punishment imposed shall not be suspended or probation granted.

☐ Enhanced Punishment for Drug Sale Near Housing Project: §13A-12-270, Code of Alabama 1975, provides that any person who is convicted of unlawfully selling any controlled substance within a three (3) mile radius of a public housing project owned by a housing authority must be inished by an additional penalty of five years' imprisonment in a state correctional facility for each violation. This period of imprisonment is mandatory d the punishment imposed shall not be suspended or probation granted.

☐ Enhanced Punishment For Sales Of Controlled Substance To Anyone Under 18: §13A-12-215, Code of Alabama 1975, provides that anyone convicted of selling, furnishing, or giving away a controlled substance to one who has not yet attained the age of 18 years, shall be guilty of a lass A Felony and the punishment imposed shall not be suspended or probation granted.

Drug Demand Reduction Assessment Act and Loss of Driving Privileges: Section 13A-12-281 provides that, if you are convicted of a violation of §13A-12-202 (criminal solicitation to commit controlled substance crime), 13A-12-203 (attempt to commit a controlled substance crime), 13A-12-204 (criminal conspiracy), 13A-12-211(unlawful distribution of a controlled substance), 13A-12-212 (unlawful possession or receipt of a controlled substance), 13A-12-213 (unlawful possession of marijuana, 1st), 13A-12-215 (sale, furnishing, etc., of controlled substance by person over age 18 to person under age 18) or 13A-12-231 (drug trafficking), Code of Alabama 1975, you shall be assessed an additional fee of \$1,000 if you are a first-time offender or

Case	2:07-cv-00294-I	VIHIT-SRVV	Docume	ent 7-3	Filed 05/0	13/2007	Page 9 of 1	1
	· · · · · · · · · · · · · · · · · · ·				(d)			
Form CR-52 (back)	Rev. 8/11/2000				RIGHTS ANI Offender - Circuit			
\$2,000 if you are a re	epeat offender under one program and if you agree	of these section	- 0.11				•	
the court to reduce the court if you fail to possession of mariju a motor vehicle for a Alcohol/Drugsubstance abuse. Battreatment and to pay	he penalty by the amoun o enroll in or successfully ana in the second degre period of six months, wh g Related Offenses: If y as dupon the results of for the evaluation and a	t actually paid by pursue or otherwel, §32-5A-191(a) lich shall be in advou are convicted any such evaluations considered and some considered and	you for participa ise fail to comp. (3) or §32-5A-1 dition to any sus of an alcohol or on, you will be ro n to which you a	ation in the pro- lete an appro- 91(a)(4)(DUI spension or re- drug-related required to co are referred.	ogram. Any susp ved program. In offenses involvine evocation otherw offense, you will implete the recor Failure to submit	completion of the addition, pursuing drugs), you vise provided but be required to mmended count to an evaluation	r the program, you penalty can be with yant to §13A-12-21 will lose your privile y law. y undergo an evalure of education and ion or failure to conton or failure to conton penalty.	may apply hdrawn by 4 (unlawfuege to driv ation for
waiver of part of all of	including random drug a f the fees assessed if you n lieu of the monetary pa	u are indigent or for	or blood, urine or any portion o	and/or breath f time you are	n, tests and to pa financially unab	ay a fee for this ble to pay. Co	nay also be require s service. You may mmunity service m	d to attend / request a ay be
DNA Sample the offenses set out in attempt, conspiracy of	s for Criminal Offenses 1 §36-18-24(felony offenses 2 solicitation thereof)	s in §36-18-24: Se se or any offense	ection 36-18-25 contained in Ch	(e), Code of A apter 6 of Tit	Alabama 1975, p le 13A - offenses	provides that, a s involving dan	all persons convicte ager to the person	ed of any o - or
as defined in §§13A-1 of Alabama 1975.	sion: If you are convicted 2-211 to 13A-12-260, inc	d in any court of the clusive, Code of A	his state for drug Nabama 1975, a	g possession in additional f	, drug sale, drug fee of \$100.00 wi	trafficking, or ill be assessed	drug paraphernalia d pursuant to §36-1	offenses 8-7, Code
Other:				·	<u> </u>	<u>.</u>		
· ···········		 	 					
•		RIGHTS YOU I	HAVE AND WA		UD DIGUEO			
Under the Constit	tution of the United State	is and tha Conctit	ution and laws.	-646 - 01 1				
to answer any question You have the righ trial before a duly select to trial, you would have and cross examine you their attendance in cou chose to do so, as no c subjected to cross exa- ney is bound to do If you elect to proc the State produces suff	ns. If you do answer que to enter, and continue cted jury. The jury would the right to be present, ir accuser(s) and all the rt and their testimony re- one can require you to do mination. If you decide n everything he/she can be ceed to trial, you come to ficient evidence to convir	estions knowing the decide your guilt you would have to State's witnesses quired by the court of this. If you elect not to testify, no one court presumed to the time of the court presumed to the time (or the time) and the time (or the time) (o	at you have a right of "Not Guilty" or or innocence be right to have, you would have, and you would to testify, you come but your atto sonably do to se to be innocent.	ight to remain: "Not Guilty be ased upon the your attorney e the right to d have the right to d have the right to deep that you obtain the presum of the presum the p	pential talks ne/s in silent, you will he silent, you will he evidence preser preser to assist subpoena witnes to take the will examined by the llowed to commendain a fair and in ption of innocence.	the has had with have waived the hotal Disease o ented before it is tyou, you work sees to testify itness stand are State, just as ent about that apartial trial, ce will follow y	th you. You are not is right. r Defect," and have nem. If you elect to uld have the right to on your behalf and to testify, but on any other witness fact to the jury. You throughout the to	e a public proceed confront to have ly if you is ur
have not yet been indication for	ted, you are waiving indi- iled with the court	ctment by a grand	l jary and you w	ill be pleading	y. If you are ente g guilty to a char	ering a guilty p ge preferred a	lea to a charge for gainst you by a Dis	which you trict
SENTENCED BASED (UILTY, THERE WILL BE SENTATION BY AN AT ON YOUR GUILTY PLE Y QUESTIONS ABOUT THER EXPLANATION I	A. YOU WILL, H YOUR RIGHTS O	UMENED HY	VE NOTHING	G 10 PROVE, A	ND YOU WIL	L BE CONVICTED	AND
IFID-114.				118	-/1	// .		

Judge

ATTORNEY'S CERTIFICATE

I certify that the above was fully read to the defendant by me; that I explained the penalty or penalties involved with the defendant; that I discussed in detail the defendant's rights and the consequences of pleading guilty; and that, in my judgment, the defendant understands the same and that he/she is knowingly, voluntarily, and intelligently waiving his/her rights and entering a voluntary and intelligent plea of guilty. I further certify to the court that I have in no way forced or induced the defendant to plead guilty and to my knowledge no one else has done so.

Date

Attorney

DEFENDANT'S STATEMENT OF WAIVER OF RIGHTS AND PLEA OF GUILTY

I certify to the court that my attorney has read and explained the matters set forth above; that my rights have been discussed with me in detail and fully explained; that I understand the charge or charges against me; that I understand my rights, the punishment or punishments provided by law as they may apply to my case, and I understand the consequences of pleading guilty; that I am not under the influence of any drugs, medicines, or alcoholic beverages; and I have not been threatened or abused or offered any inducement, reward, or hope of reward to plead guilty other than the terms of the plea agreement which will be stated on the record.

I further state to the court that I am guilty of the charge to which I am entering a plea of guilty, that I desire to plead guilty, that I made up my own mind to plead guilty, and that I knowingly, intelligently, and voluntarily waive my right to a trial in this case. I further state to the court that I am satisfied

with my attorney's services and his/her handling of my case.

Date

Date

State of Alabama Unified Judicial System

EXPLANATION OF RIGHTS AND

Case Number

1	PLEA OF GUILTY				y				
orm CR-52 (front) Rev. 8/11/2000			1/2000	(Habitua	l Felony Offender — (Circuit o	r District Court)	Count (count #, if app	plicable)
INTHE Circuit COURTOF BULLOCK ,ALABA						3AMA			
		(Circu	ıi <u>t or D</u>	istrict)	C - 1	_	(Name of Cou	inty) .	
5	STATEOFALA	BAMA v	<u> </u>	sho sto	shen la		an, Sr.		
			·.·			Defend	ant		
	TO THE ABOVE-NAMED DEFENDANT: After the court was informed that you wish to enter a plea of guilty in this case, this is to inform you of your rights as a criminal defendant.								
				d.,	NALTIES APPLICABLE 1		 .	1	
:.	You are charge	a with the i sire to ente	er a olea	of auilty to fifth	is offense or ☐ to the cri	<u>วาง<i>ม</i>ห</u> ne of	Mich is a Class	Felony. The court ha	s been
11	nonned that you do						for the above crime(s) is se	t out below:	
Ī	FELONY			······································					
-	Class A	Not less t	han ten (1	(0) years and not mo	re than ninety-nine (99) years	mprisonm	ent or life imprisonment in the s	tate penitentiary, including hard	labor
		and may	include à	fine not to exceed \$	20,000.		·		
	Class B	not to exc	eed \$10,	000. For imprisonme	ent not more than 3 years, con	finement m	nay be in county jail and senten	ing hard labor and may include ce may include hard labor for co	ounty.
Γ	Class C	Not less t include a	han one (fine not to	(1) year and one (1) exceed \$5,000. Fo	day and not more than ten (1 rimprisonment not more than:	0) years іл 3 years, co	nprisonment in the state penite nfinement may be in county jail	entiary, including hard labor and and sentence may include hard	d may Habor
· L	You will also be	ordered to	pay the	costs of court, wi	nich may include the fees	ој алу ар	pointed attorney, and restit	utjon if there is any. You w	ill also
b	e ordered to pay an nd not more than \$1	additional	moneta each fel	ry penaltý for the	use and benefit of the Ala	bama Cri	me Victims Compensation	Commission of not less that	an \$50
	As a reported ha	abitual offe	nder, yo	ou are further advi	sed that the Alabama Hat	itual Offe	ender Act, §13A-5-9, as am	ended by Act 2000-759, pr	ovides
44	ne following enhance	d punishm	ent for a	nyone who has be	en previously convicted of	one or mo	ore felonies and who then is	convicted of a subsequent	felony:
	Prior Felonies — This offense	}	Prio	No r Felonies	One Prior Felony		Two Prior Felonies	Three + Prior Felonies	
	This offense			1 Day —10 Years	2—20 Years		10 — 99 Years or Life	15 — 99 Years or L	ife
	Class C Felo	ny∙ .	In Sta	ate Penitentiary LUp To \$5,000	In State Penitentian Fine Up To \$10,000		In State Penitentiary Fine Up To \$20,000	In State Penitentiar Fine Up To \$20,00	ry 10
				- 20 Years ate Penitentiary	10 — 99 Years or Li In State Penitentian		15— 99 Years or Life In State Penilentiary	Mandatory Life Imprison any term of not less t	
	Class B Felor	ry .		Up To \$10,000	Fine Up To \$20,000		Fine Up To \$20,000	years Fine Up To \$20,00	
	Class A Felony (No prior convictions	for a	In-Sta	99 Years or Life ate Penitentiary Up To \$20,000	15 — 99 Years or Li In State Penitentian Fine Up To \$20,000	·	Life imprisonment or Any Te Of Years Not Less Than 99 Fine Up To \$20,000	or Life Imprisonment 1 Possibility of Parole	
٠.	Class A Felony)							Fine Up To \$20,000	
	(One or more prior convictions for any C		in State	Years or Life Penitentiary To \$20,000	15—99 Years or Life In State Peritentiary Fine Up To \$20,000.		Life imprisonment of Any To Of Years Not Less Than 9 Fine Up To \$20,000	erm: Mandatory Imprisonme 9: Life Without Possibility o Fine Up to \$20,00	or Parole
	Felony)				955		(5	Iv-1 AIv-To-Vous Coo	
This crime is also subject to the following enhancements or additional penalties as provided by law: (Provisions Checked Apply To Your Case) Enhanced Punishment For Use Of Firearm Or Deadly Weapon: §13A-5-6, Code of Alabama 1975, provides for sentence enhancement									
where a "firearm or deadly weapon was used or attempted to be used in the commission of a felony." This section provides for the following punishment									
in such event: For the commission of a Class A Felony, a term of imprisonment of not less than 20 years; for the commission of a Class B or Class C Felony, a term of imprisonment of not less than 10 years;									
☐ Enhanced Punishment for Drug Sale Near School: §13A-12-250, Code of Alabama 1975, provides that any person who is convicted of unlawfully selling any controlled substance within a three (3) mile radius of a public or private school, college, university or other educational institution,									
must be punished by an additional penalty of five years imprisonment in a state correctional facility for each violation. This period of imprisonment is									
mandatory and the punishment imposed shall not be suspended or probation granted. ☐ Enhanced Punishment for Drug Sale Near Housing Project: §13A-12-270, Code of Alabama 1975, provides that any person who is									
CC	convicted of unlawfully selling any controlled substance within a three (3) mile radius of a public housing project owned by a housing authority must be punished by an additional penalty of five years' imprisonment in a state correctional facility for each violation. This period of imprisonment is mandatory								
nı	mished by an addition	o <u>nal</u> penali	ty of five	years' imprisonm	ient in a state correctional	facility fo	r each violation. This perio	of imprisonment is mand	atory .
	and the punishment imposed shall not be suspended or probation granted. ☐ Enhanced Punishment For Sales Of Controlled Substance To Anyone Under 18: §13A-12-215, Code of Alabama 1975, provides that								
	yone convicted of selling, furnishing, or giving away a controlled substance to one who has not yet attained the age of 18 years, shall be guilty of a								

lass A Felony and the punishment imposed shall not be suspended or probation granted.

Filed 05/03/2007

Page 11 of 11

of

Form CR-52 (back) Rev. 8/1		. (Maditual Felony ()	RIGHTS AND PLEA OF GU ffender – Circuit or District Court)	
the court to reduce the penalty be the court if you fail to enroll in or possession of marijuana in the sa motor vehicle for a period of si Alcohol/Drug Related (substance abuse. Based upon the treatment and to pay for the eval program to which you may be remonitoring sessions, including rawaiver of part of all of the fees as ordered by the court in lieu of the	by the amount actually paid by you successfully pursue or otherwisecond degree), §32-5A-191(a)(ax months, which shall be in add Offenses: If you are convicted on the results of any such evaluation and any cost of program ferred will be considered a violation drug and alcohol testing to seessed if you are indigent or form monetary payment of fees.	Collection of all or part of to all of the program costs. It ou for participation in the prose fail to complete an approval or §32-5A-191(a)(4)(DUI control of an alcohol or drug-related on, you will be required to control of any probation or paro or blood, urine and/or breath r any portion of time you are	the penalty will be suspended if, with Upon successful completion of the penalty and suspension of the penalty of program. Any suspension of the penalty of program. In addition, pursuant to offenses involving drugs), you will be evocation otherwise provided by law offense, you will be required to und mplete the recommended course of allure to submit to an evaluation of the you may be granted. You may also the standard to pay a fee for this sent financially unable to pay. Commu	program, you may apply alty can be withdrawn by to §13A-12-214 (unlawful ose your privilege to drive y. Gergo an evaluation for of education and/or refailure to complete any also be required to attend vice. You may request a unity service may be
attempt, conspiracy, or solicitatio	n thereof), shall be ordered by	the court to submit to the tak	Nabama 1975, provides that, all pe le 13A - offenses involving danger t king of a DNA sample or samples. drug sale, drug trafficking, or drug	to the person - or
as defined in §§13A-12-211 to 13 of Alabama 1975. Other:	A-12-260, inclusive, Code of Ala	abama 1975, an additional fe	orug sale, drug trafficking, or drug ee of \$100.00 will be assessed pur	suant to §36-18-7, Code
,				
to answer any questions. If you de You have the right to enter, a trial before a duly selected jury. To trial, you would have the right to and cross examine your accuser(setheir attendance in court and their chose to do so, as no one can requipped to cross examination. If attorney is bound to do everything If you elect to proceed to trial the State produces sufficient evide burden of proof in this case. If the have not yet been indicted, you are Attorney's Information filed with the IF YOU PLEAD GUILTY, THE RELATING TO REPRESENTATION SENTENCED BASED ON YOUR	United States and the Constitute against yourself. Your attorner of answer questions knowing the sind continue to assert, a plea of the jury would decide your guilt of the jury would have the side of the jury would have the ju	y cannot disclose any contide at you have a right to remain "Not Guilty" or "Not Guilty by or innocence based upon the eright to have your attorney you would have the right to and you would have the right to testify, you can be cross ee but your attorney will be all onably do to see that you ob to be innocent. This presump court if the trial is non-jury) or ou would be found not guilty jury and you will be pleading I WILL BE WAIVING THE RATE WILL HAVE NOTHING THE RATE WILL HAVE THE RIGHT RATE CONSEQUENCES O	Alabama, you have a right to remain the control talks he/she has had with you silent, you will have waived this rigy. Reason of Mental Disease or Deference presented before them. present to assist you, you would his subpoena witnesses to testify on you had to take the witness stand and to examined by the State, just as any lowed to comment about that fact that in a fair and impartial trial. To be control to the control of your guilt beyond a reasonable of the control of the control of guilty to a charge preferred against IGHTS OUTLINED ABOVE, EXCE	u. You are not required that. fect, and have a public lifyou elect to proceed ave the right to confront our behalf and to have testify, but only if you other witness is to the jury. Your proughout the trial until loubt. You have not a charge for which you st you by a District lift. EPT YOUR RIGHTS CONVICTED AND
if detail the delendant's rights and t	y read to the defendant by me; the consequences of pleading of	UIIIV. Shu that in my indome	or penalties involved with the defend nt, the defendant understands the selligent plea of quilty. I further certif	

have in no way forced or induced the defendant to plead guilty and to my knowledge no one else has done

Date

DEFENDANT'S STATEMENT OF WAIVER OF RIGHTS AND PLEA OF GUILTY

I certify to the court that my attorney has read and explained the matters set forth above; that my rights have been discussed with me in detail and fully explained; that I understand the charge or charges against me; that I understand my rights, the punishment or punishments provided by law as they may apply to my case, and I understand the consequences of pleading guilty; that I am not under the influence of any drugs, medicines, or alcoholic beverages; and I have not been threatened or abused or offered any inducement, reward, or hope of reward to plead guilty other than the terms of the plea agreement which will be stated on the record.

I further state to the court that I am guilty of the charge to which I am entering a plea of guilty, that I desire to plead guilty, that I made up my own mind to plead guilty, and that I knowingly, intelligently, and voluntarily waive my right to a trial in this case. I further state to the court that I am satisfied with my attorney's services and his/her handling of my case.

IN THE CIRCUIT COURT OF BULLOCK COUNTY, ALABAMA

Document 7-4

STATE OF ALABAMA,)	
Plaintiff,)	,
vs.)	CASE NO. CC-2004-46
JOHN STEPHEN COLEMAN, SR.,)	
Defendant.)	

SENTENCING ORDER

This matter came before the Court on this 9th day of December, 2004, for sentencing, the Defendant having entered a plea of guilty to the crime of Unlawful Distribution of a Controlled Substance on November 15, 2004. The Defendant and his Attorney, Thomas F. Kelly, Jr., were present before the Court, with the State represented by District Attorney Boyd Whigham.

Upon consideration of the pre-sentence report of the Probation and Parole Officer and the oral arguments, testimony, and exhibits presented to the Court, it is the sentence of the law and the judgment of this Court that the Defendant be, and hereby is, sentenced to the penitentiary of the State of Alabama for a period of twenty (20) years for the crime of Unlawful Distribution of a Controlled Substance. IT IS FURTHER ORDERED that the Defendant shall pay a fine in the amount of \$2,000.00, \$50.00 for the crime victims compensation fund, attorney's fees, and court costs, said court costs to include an additional fee in the amount of \$100.00 for the Alabama Forensic Sciences Trust Fund in accordance with Section 36-18-7 of the Code of Alabama.



Defendant's sentence in this case shall run consecutive to his sentences in Count One and Count Two of Case No. CC-2004-47 and consecutive to his sentences in Count One and Count Two of Case No. CC-2004-48.

DONE AND ORDERED this 9th day of December, 2004.

Burt Smithart, Presiding Circuit Judge Third Judicial Circuit of Alabama

Page 3 of 8

IN THE CIRCUIT COURT OF BULLOCK COUNTY, ALABAMA

STATE OF ALABAMA,)	
Plaintiff,)	
VS.)	CASE NO. CC-2004-47
JOHN STEPHEN COLEMAN, SR.,)	
Defendant.	·)	

SENTENCING ORDER

This matter came before the Court on this 9th day of December, 2004, for sentencing, the Defendant having heretofore on November 15, 2004, entered pleas of guilty to the crimes of Unlawful Distribution of a Controlled Substance in Count One of the Indictment and Selling, Furnishing, or Giving a Controlled Substance to a Minor in Count Two of the Indictment. The Defendant and his Attorney, Thomas F. Kelly, Jr., were present before the Court, with the State represented by District Attorney Boyd Whigham.

Upon consideration of the pre-sentence report of the Probation and Parole Officer and the oral arguments, testimony, and exhibits presented to the Court, it is the sentence of the law and the judgment of this Court that the Defendant be, and hereby is, sentenced to the penitentiary of the State of Alabama, as follows:

For the crime of Unlawful Distribution of a Controlled Substance as set forth in Count One of the Indictment, it is the sentence of the law and the judgment of this Court that the Defendant be, and hereby is sentenced to twenty (20) years in the penitentiary. The Defendant is further ordered to pay a fine in the amount of \$2,000.00, \$50.00 for the crime victims compensation fund, attorney's fees, and court costs, said court costs to include an additional fee in the amount of \$100.00 for the Alabama Forensic Sciences

Trust Fund in accordance with Section 36-18-7 of the Code of Alabama.

For the crime of Selling, Furnishing or Giving a Controlled Substance to a Minor as set forth in Count Two of the Indictment, it is the sentence of the law and the judgment of this Court that the Defendant be, and hereby is, sentenced to ninety-nine (99) years in the penitentiary and is ordered to pay a fine in the amount of \$5,000.00, \$50.00 for the crime victims compensation commission, attorney's fees, and court costs, said court costs to include an additional fee in the amount of \$100.00 for the Alabama

Forensic Sciences Trust Fund in accordance with Section 36-18-7 of the *Code of Alabama*.

Defendant's sentences in this case shall run consecutive to each other and consecutive to his sentences in Count One and Count Two of Case No. CC-2004-48 and consecutive to his sentence in Case No. CC-2004-46.

DONE AND ORDERED this 9th day of December, 2004.

Burt Smithart, Presiding Circuit Judge Third Judicial Circuit of Alabama

IN THE CIRCUIT COURT OF BULLOCK COUNTY, ALABAMA

STATE OF ALABAMA,)		•
Plaintiff,)		
VS.) (CASE NO, CC	-2004-48
JOHN STEPHEN COLEMAN, SR.,)		
Defendant.) ·	*:	

ORDER

On this day appeared the Defendant with his attorney, Thomas Frank Kelly, Jr., with the State represented by District Attorney Boyd Whigham; and, with the consent and agreement of his attorney, the Defendant withdrew his pleas of not guilty and entered pleas of guilty to the charge of Unlawful Distribution of a Controlled Substance as charged in Count One of the Indictment, and to the charge of Selling, Furnishing, or Giving a Controlled Substance to a Minor, as charged in Count Two of the Indictment. Before accepting Defendant's pleas of guilty, the Court advised the Defendant of all of his constitutional rights with the colloquy being taken down by the court reporter. The Court accepted Defendant's plea of guilty in Count One and adjudged the Defendant to be guilty of the crime of Unlawful Distribution of a Controlled Substance. The Court further accepted Defendant's plea of guilty in Count Two and adjudged the Defendant to be guilty of the crime of Selling, Furnishing, or Giving a Controlled Substance to a Minor.

IT IS HEREBY ORDERED that a sentencing hearing shall be held before this Court on December 9, 2004, at 8:30 a.m., at the Bullock County Courthouse in Union Springs, Alabama.

The Probation and Parole Officer is hereby directed to prepare and submit to the Court a pre-

sentence investigation report and shall provide copies of said report to Defendant's attorney and the District Attorney.

DONE AND ORDERED this 15th day of November, 2004.

Burt Smithart, Presiding Circuit Judge

Third Judicial Circuit of Alabama

IN THE CIRCUIT COURT OF BULLOCK COUNTY, ALABAMA

STATE OF ALABAMA,)	
Plaintiff,)	
vs.)	CASE NO. CC-2004-48
JOHN STEPHEN COLEMAN, SR.,)	
Defendant.)	

SENTENCING ORDER

This matter came before the Court on this 9th day of December, 2004, for sentencing, the Defendant having heretofore on November 15, 2004, entered pleas of guilty to the crimes of Unlawful Distribution of a Controlled Substance in Count One of the Indictment and Selling, Furnishing, or Giving a Controlled Substance to a Minor in Count Two of the Indictment. The Defendant and his Attorney, Thomas F. Kelly, Jr., were present before the Court, with the State represented by District Attorney Boyd Whigham.

Upon consideration of the pre-sentence report of the Probation and Parole Officer and the oral arguments, testimony, and exhibits presented to the Court, it is the sentence of the law and the judgment of this Court that the Defendant be, and hereby is, sentenced to the penitentiary of the State of Alabama, as follows:

For the crime of Unlawful Distribution of a Controlled Substance as set forth in Count One of the Indictment, it is the sentence of the law and the judgment of this Court that the Defendant be, and hereby is sentenced to twenty (20) years in the penitentiary. The Defendant is further ordered to pay a fine in the amount of \$2,000.00, \$50.00 for the crime victims compensation fund, attorney's fees, and court costs, said court costs to include an additional fee in the amount of \$100.00 for the Alabama Forensic Sciences

Trust Fund in accordance with Section 36-18-7 of the *Code of Alabama*.

For the crime of Selling, Furnishing or Giving a Controlled Substance to a Minor as set forth in Count Two of the Indictment, it is the sentence of the law and the judgment of this Court that the Defendant be, and hereby is, sentenced to ninety-nine (99) years in the penitentiary and is ordered to pay a fine in the amount of \$5,000.00, \$50.00 for the crime victims compensation commission, attorney's fees, and court costs, said court costs to include an additional fee in the amount of \$100.00 for the Alabama Forensic Sciences Trust Fund in accordance with Section 36-18-7 of the Code of Alabama.

Defendant's sentences in this case shall run consecutive to each other and consecutive to his sentences in Count One and Count Two of Case No. CC-2004-47 and consecutive to his sentence in Case No. CC-2004-46.

DONE AND ORDERED this 9th day of December, 2004.

Burt Smithart, Presiding Circuit Judge Third Judicial Circuit of Alabama

IN THE CIRCUIT COURT OF BULLOCK COUNTY, ALABAMA

STATE OF ALABAMA, PLAINTIFF,

CC 2004-46, 47 & 48

JOHN STEPHEN COLEMAN, SR., DEFENDANT.

MOTION TO WAIVE GUILTY PLEA

Comes now the defendant, John Stephen Coleman, Jr., by and through his attorney, Thomas F. Kelly, Jr., and after discussion with his Attorney, it is the Defendant's wish to waive his plea of guilty on the following grounds:

- Mr. Coleman was sentenced on December 9, 2004, to a term of 20 years in CC 2004-46, 20 years in CC 2004-47 and 99 years in CC 2004-47 (A felony) in the state penitentiary, to run consecutive with his current sentence. He was also sentenced to 20 years in CC 2004-48 and 99 years in CC 2004-48(A felony) in the state penitentiary, to run consecutive with his current sentence.
- The defendant states that he unknowingly entered into a plea agreement. To maintain a plea of guilty in such a case will create a manifest injustice.
- Under Rule 14.4 (e) of the Rules of Criminal Procedure, the Court may allow the withdrawal of a plea of guilty when necessary to correct a manifest injustice.

Wherefore, defendant respectfully requests that a hearing be set to consider this motion. Respectfully submitted this the 17th day of December, 2004.

Thomas F. Kelly, Ir.

EXHIBIT

Attorney for the Defendant Post Office Box 605

Clayton, Alabama 36016 (334)775-8009

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a copy of the foregoing by U. S. Mail, postage prepaid, upon Honorable S. Boyd Whigham, District Attorney, P. O. Box 61, Eufaula, Alabama 36072, on this the 16th of December, 2004.

> Thomas F. Kelly, Jr. Attorney for the Defendant

IN THE CIRC	JUH COU	RT OF B	ULLOCK	COUNTY	, ALABAMA
-------------	---------	---------	--------	--------	-----------

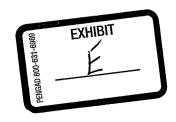
STATE OF ALABAMA,)	
Plaintiff,)	
Vs.)	CASE NO.: CC-2004-46,47,48
JOHN STEPHEN COLEMAN,)	
Defendant.)	

ORDER

This matter comes before the Court on Defendant's Motion to Withdraw Guilty Pleas hereto filed. Having reviewed said motion, all pleadings, and the reporter's transcript of the pleas, the Court hereby denied Defendant's Motion to Withdraw Pleas.

DONE AND ORDERED this ______ day of March, 2005.

Burt Smithart, Presiding Circuit Judge Third Judicial Circuit of Alabama



IN THE CIRCUIT COURT OF	OF	CRIMINAL	. COU APPEALS	NTY, ALAB OF ALABAM	AMA 1A
John Coleman,	:				. :
VS.	: ·	CASE NO.	2004-4	16-47-4	8
STATE OF ALABAMA, APPELLEE.	•		3-7- DATE OF	OS E DENTAL	

NOTICE OF APPEAL

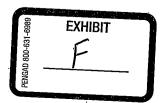
Notice is hereby given that Petitioner John Coleman appeals to the above - named court from the judgment of denial of Motion to Withdraw Evilty Please ENTERED IN THIS CAUSE ON THE 18 day of March 2008.

Dated: 3-19-05

I am, this date, serving a copy of the foregoing on all parties required by the A.R.A.P., via United States Mail, first class and proberly addressed.

Respectfully submitted,

John Coleman



THE STATE OF ALABAMA - - JUDICIAL DEPARTMENT THE ALABAMA COURT OF CRIMINAL APPEALS

CR-04-1224

John Stephen Coleman, Sr., Appellant

VS.

State of Alabama, Appellee

Appeal from Bullock Circuit Court No. CC-04-46; CC-04-47; and CC-04-48

ORDER

Our review of the record reveals that on November 15, 2004, John Stephen Coleman, Sr., entered guilty pleas to three counts of unlawful distribution of a controlled substance, marijuana, in violation of § 13A-12-211, Ala. Code 1975, and to two counts of selling, furnishing, or giving a controlled substance, marijuana, to a minor, in violation of § 13A-12-215, Ala. Code 1975. On December 9, 2004, Coleman was sentenced, as a habitual felony offender, to 20 years' imprisonment on each of the three distribution convictions and to 99 years' imprisonment on each of the distribution-to-a-minor convictions. Thereafter, Coleman filed a motion to withdraw his guilty plea.

Coleman's motion to withdraw his guilty plea was denied by operation of law on February 7, 2005, which was 60 days after he was sentenced. See <u>Wallace v. State</u>, 701 So. 2d 829, 830 (Ala. Crim. App. 1997) ("A motion to withdraw a guilty plea is the functional equivalent of a motion for a new trial."); and Rule 24.4, Ala.R.Crim.P. ("No motion for new trial ... shall remain pending in the trial court for more than sixty (60) days after the pronouncement of sentence, except as provided in this section.").

Rule 4(b)(1), Ala.R.App.P., provides that "[i]f a ... motion for new trial ... has been filed within 30 days from pronouncement of the sentence, an appeal may be taken within 42 days (6 weeks) after the denial or overruling of the motion." Rule 2(a)(1), Ala.R.App.P., provides that "[a]n appeal shall be dismissed if the notice of appeal was not timely filed to invoke the jurisdiction of the appellate court." (Emphasis added.) Coleman's 42-day appeal time began on February 8, 2005, and ended on March 21, 2005. The case action summary states "3-22-05 Notice of Appeal filed. (C. 3.) Although Coleman dated his notice of appeal March 19, 2005, he did not include a statement indicating that March 19, 2005, was the date he deposited his notice in the prison's internal mail system. (C. 63.) Furthermore, unlike the appellant in Ex parte Wright, 860 So. 2d 1253 (Ala. 2002), he did not include the signatures of witnesses to support his assertion that he served his notice of appeal on that date. Rule 4(c), Ala.R.App.P., provides:

Filed 05/03/2007

"If an inmate confined in an institution and proceeding pro se files a notice of appeal in either a civil or a criminal case, the notice will be considered timely filed if it is deposited in the institution's internal mail system on or before the last day for filing. If an institution has a system designed for 'legal' mail to be processed by the United States Post Office, the inmate must use that system to receive the benefit of this rule. Timely filing may be shown by a notarized statement that sets forth the day the filing was deposited in the institution's mail system."

Because Coleman did not file his notice of appeal within 42 days after his motion to withdraw his guilty plea was deemed denied, his notice was not timely. As this Court does not have jurisdiction in this case, we set aside and vacate our order dated November 1, 2005. Accordingly, this Court ORDERS that this appeal be and the same hereby is dismissed.

Done this 10th day of November, 2005.

H. W. MILLAND PRECIDENCE II

H. W. "BUCKY" McMILLAN, PRESIDING JUDGE

cca/

cc: Hon. L. Bernard Smithart, Judge

Hon. Wilbert M. Jernigan, Clerk

Kelli Wise Walker Mills, Court Reporter

Utopia Conger Cassady, Esq.

Office of the Attorney General





IN THE SUPREME COURT OF ALABAMA

March 14, 2007

1060843

Ex parte John Stephen Coleman, Sr. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: John Stephen Coleman, Sr. v. State of Alabama) (Bullock Circuit Court: CC04-46; CC04-47; CC04-48; Criminal Appeals: CR-04-1224).

ORDER

IT IS ORDERED that the petition for writ of certiorari filed on February 26, 2007, is stricken pursuant to Rule 39(c)(2), Alabama Rules of Appellate Procedure.

I Robert G. Esdale, Sr., as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 14th day of March 2007

Clerk, Supreme Court of Alabama

cc:

John Coleman, Pro Se Hon. Troy R. King, Attorney General J. Thomas Leverette, Asst. Atty. Gen.

686	EXHIBIT	
33-6		
PENGAD 800-631-6989	17	
GAD (11	
JEN JEN		
		_

SUPREME COURT OF ALABAMA

Robert G. Esdale Clerk Lynn Knight Assistant Clerk Office of the Clerk 300 Dexter Avenue Montgomery, AL 36104-3741 (334) 242-4609

1060843

Ex parte John Stephen Coleman, Sr. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: John Stephen Coleman, Sr. v. State of Alabama) (Bullock Circuit Court: CC04-46; CC04-47; CC04-48; Criminal Appeals: CR-04-1224).

NOTICE

You are hereby notified that your case has been docketed. Future correspondence should refer to above Supreme Court case number. The petition for writ of certiorari was filed with the Supreme Court on 02/26/2007

AMENDMENTS TO THE RULES OF APPELLATE PROCEDURE

RECENT APPELLATE RULE AMENDMENTS: Counsel and parties should review recent amendments to the Alabama Rules of Appellate Procedure, effective June 1, 2005 and October 31, 2005. The amendments can also be found under "Rule Changes" at the Judicial System website at http://www.judicial.state.al.us.

APPELLATE MEDIATION: On July 17, 2003, the Supreme Court of Alabama adopted Rule 55, Alabama Rules of Appellate Procedure, which provides for appellate mediation of civil appeals. On January 6, 2004, the Supreme Court of Alabama adopted the Alabama Appellate Mediation Rules. The rules and any amendments can be accessed at http://www.judicial.state.al.us/mediation. Any counseled civil case may be referred to appellate mediation by the Appellate Mediation Administrator.

SIGNATURE ON BRIEFS: Newly adopted Rule 25A, Alabama Rules of Appellate Procedure, requires that appellate documents be signed by at least one attorney of record or, in a case in which the party is proceeding pro se, by the party. The rule provides that any unsigned document shall be stricken unless the omission is promptly corrected after it is called to the attention of the attorney or party filing it.

PETITIONS FOR WRIT OF CERTIORARI: Rule 39 has been amended, effective June 1 and October 31, 2005, to provide that no briefs in support of or in response to a petition for writ of certiorari shall be filed before the writ of certiorari issues unless otherwise ordered by the Court. Any brief filed in disregard of subsection (b)(4) or subsection (c)(3) of Rule 39 shall be stricken.

OTHER AMENDMENTS TO THE ALABAMA RULES OF APPELLATE PROCEDURE: Other amendments to the Alabama Rules of Appellate Procedure that should be reviewed are those that became effective August 1, 2000; September 1, 2000; and October 1, 2001. Those amendments govern, among other things, the presumptively reasonable time for filing petitions for a writ of mandamus (Rule 21(a)); appellate review of arbitration cases (Rule 4(d)); and applications for rehearing (Rule 40). Also, counsel who are unfamiliar with the "abevance" procedure should review the amendment to Rule 4 effective February 1, 1994.

BRIEFS - EXTENSION OF TIME FOR FILING BRIEFS

NOTE: THIS OFFICE IS NOT RESPONSIBLE FOR INFORMING YOU WHEN YOUR BRIEF IS DUE. PLEASE CONSULT RULE 31(a), ALABAMA RULES OF APPELLATE PROCEDURE, FOR TIMES FOR FILING.

Any party requesting an extension pursuant to Rule 31(d) may do so by telephone request to the clerk's office, PRIOR to the date the brief is due. If a Rule 31(d) extension is obtained by a telephone call to the clerk's office, a letter confirming the extension and stating the date the brief will be due shall be sent to the Clerk's office. A copy of the letter must be served on all other attorneys or parties. If a party obtains a seven day extension to file the principal brief pursuant to Rule 31(d), no further extensions will be granted pursuant to that rule. This rule does not apply to briefs ordered filed by the Court, for instance in response to petitions for writs of mandamus. For extensions, please call the Supreme Court Clerk's Office at 334-242-4609.

Motions for enlargement of time to file a brief after the 7 day extension pursuant to Rule 31(d) will not be granted unless extraordinary good cause is shown. Unless there is an unanticipated event or emergency that results in extreme hardship, a motion for enlargement of time will not be granted. A heavy workload alone will not be considered good cause. Any request for enlargement of time must be made by motion and must be filed in the Clerk's office before the first extension has expired.

FILINGS - NUMBER OF COPIES, COLOR OF COVERS, BINDINGS, SERVICE, ETC.:

NUMBER OF COPIES: An original and 12 copies must be filed.

COLOR OF COVERS OF BRIEFS AND OTHER FILINGS: Rule 32 requires the following colors be used on brief covers: appellant/petitioner -- blue, appellee/respondent -- red, intervenor/amicus -- green, reply -- gray. The cover of any filing not specifically mentioned in the rules shall be white.

CERTIFICATE OF SERVICE: The certificate of service shall contain the attorney's address, telephone number, facsimile number, and e-mail address if any, and party represented for each attorney served.

Case 2:07-cv-00294-MHT-SRW Document 7-9 Filed 05/03/2007 Page 4 of 5

BINDING OF BRIEFS: Rule 32(a)(3) requires that the brief be bound on the left in a manner that is secure.

FILING: Papers are not considered filed until RECEIVED by the clerk of this Court; however, papers shall be deemed filed on the day of mailing if CERTIFIED, REGISTERED, OR EXPRESS MAIL of the UNITED STATES POSTAL SERVICE is used. Rule 25(a).

NOTICE TO TRIAL COURT CLERK WHEN APPELLEE'S BRIEF IS FILED: Rule 31(a) requires that the appellee give notice of the filing of the appellee's brief to the clerk of the trial court. Compliance with this rule is necessary in order for the trial clerk to know when to forward the record on appeal to the appellate court.

SECOND COPY OF RECORD ON APPEAL: Rule 11(a)(4) requires that the appellant file in this Court a copy of the record on appeal within 14 days after the date shown on the certificate of completion of the record on appeal. NOTE: The second copy of the record of appeal does not have to be filed in those appeals where the record is e-filed.

SETTLEMENT NEGOTIATIONS: If the parties are negotiating a settlement of the case after the case is submitted, they should notify the clerk in writing. No appeal will be dismissed after a proposed opinion has been circulated.

STAYS: There are no stays of time schedules for preparing the record or filing briefs unless this Court issues a specific order granting such a stay. For example, even if a Rule 10(f) motion to supplement the record is granted, the briefing schedule is not stayed unless this Court orders a stay. Any requests for a stay must be made by motion. See also Rule 8(b).

ADMISSION OF NONRESIDENT ATTORNEYS: Pro Hac Vice Rule: Rule VII of the Rules Governing Admission to the Alabama State Bar governs admittance pro hac vice of lawyers who are not members of the Alabama State Bar. Failure to comply with this rule will result in the attorney's name being stricken from any pleadings filed in the Court, and the attorney will not be allowed to participate in any oral argument concerning the appeal. Note that in cases where the attorney whose name is stricken is the only attorney of record, failure to comply with the Rule may result in dismissal of the appeal.

E-FILING PILOT PROJECT: Note that your record may be transmitted to the Court electronically. On March 1, 2005, the Supreme Court of Alabama authorized a pilot project in Lee, Madison, Montgomery, and Russell counties for the purpose of evaluating the usefulness and efficiency of preparing, transmitting, and using documents and pleadings filed electronically in cases appealed to the appellate courts of Alabama. On February 28, 2006, the Chief Justice extended the pilot project and added additional counties to the list of counties eligible to participate in the pilot program. NOTE: The second copy of the record on appeal does not have to be filed if the record on appeal is e-filed.

Robert G. Esdale, Sr., Clerk Supreme Court of Alabama



Company Name: ATTORNEY GENERALS OFFICE User ID: JMPORTER Last login Date: 4/26 Main Menu Monitor-\$ County: 09 - BULLOCK Case Number: 09-CC-2004-000046.60 | NOTICE Name: COLEMAN JOHN STEPHEN SR Search Charge: RULE 32-FELONY ☐ Party Search ☐ Case Lookup Case ☐ Attorney Search ☐ Warrant Search See Case Detail Record from Alacourt.com version 1 □ Witness Search **Case Information** ☐ DocketSearch □ HotSheet™ County: Case No: CC-2004-000046.60 IID: LBS HON. BURT! BULLOCK Filed: 10/03/2006 AAGCY: **C** County Muni Nº: 00 **Tracking** Arrest date: 04/29/2004 Offe date: 01/20/2004 ORI: 0090000 ☐ Attorney Tracker Indict date: 04/20/2004 Grand jury: BS0476 Atty 1: KEL056-A ☐ Case Monitor Tracking No's: 0/0/0 Date: ☐ Name Tracker Que: Time: Desc: ☐ Reminders **Defendant Information** Name: **COLEMAN JOHN STEPHEN SR** Desktop Alias 1: DOB: 05/07/1964 418-98-9210 ☐ My Alacourt Driv License No: 5'10" Height: Weight: 160 Race/Sex: White /M SID: AL223809 YDate: AIS: **EASTERLING CORRECTIONAL** Address 1: Administration 200 WALLACE D Address 2: Zip: City: CLIO State: ☐ Update User Info **Prosecutor and Attorney Info** Prosecutor: REE031 Name: REEVES BENJAMIN C JR Prosecu Attorney 1: KEL056-A Name: KELLY THOMAS FRANK JR Attorne Attorney 2: Name: Attorne **Warrant Information** Warrant Date: WARACT: WARLO Warrant Date Code: WARACT Code: WARLO BP ISS: BP RTN: Charges 1. Crime co: RULE Statute: **RULE 32-FELONY** Stat Name: RULE 32 2. Crime co: Statute: Stat Name: 3. Crime co: Statute: Stat Name: More: Dom Viol: Case Type: F Comment: **Bonding Information** Bond amt: 0.00 Bond type: Bond co: Rei date: Sure: CWIT: Jury Demand: Appeal Type **Settings EXHIBIT** Disposition

Sentence

Enforcement

Consolidated Case Action Summary

```
Consolidated Case Action SummaryTc 09CC200400
Date
                Code Comments
10/05/2006 13:46:21 JUDG ASSIGNED TO: (LBS) HON. BURT SMITHART (AR01)
10/05/2006 13:46:22 ATY1 ATTORNEY FOR DEFENDANT: KELLY THOMAS FRANK J(AR01)
10/05/2006 13:46:23 FILE CHARGE 01: RULE 32-FELONY/#CNTS: 001 (AR01)
10/05/2006 13:46:24 INDT DEFENDANT INDICTED ON: 04/20/2004 (AR01)
10/05/2006 13:46:25 ARRS DEFENDANT ARRESTED ON: 04/29/2004 (AR01)
10/05/2006 13:46:26 FILE FILED ON: 10/03/2006 (AR01)
10/05/2006 13:46:27 STAT INITIAL STATUS SET TO: "P" - PRISON (AR01)
10/05/2006 13:48:05 CASP CASE ACTION SUMMARY PRINTED (AR01)
10/05/2006 14:05:11 TRAN TRANSMITTAL NOTICE SENT TO PROSECUTOR (AR09)
12/08/2006 11:27:03 TRAN TRANSMITTAL NOTICE SENT TO DEFENDANT (AR09)
12/08/2006 11:27:54 JFEL JUROR FELONY FLAG SET ON FOR INDIVIDUAL (AR10)
12/08/2006 11:27:55 DISP CHARGE 01 DISPOSED BY: DISMISSED ON: 12/07/2006
12/08/2006 11:27:56 DISP CHARGE 01: RULE 32-FELONY/#CNTS: 001 (AR10)
12/08/2006 11:27:57 DJID DISPOSITION JUDGE ID CHANGED FROM: TO: LBS
12/08/2006 11:27:58 D001 ENFORCEMENT STATUS SET TO: "N" (AR10)
01/05/2007 13:52:54 TRAN TRANSMITTAL NOTICE SENT TO DEF ATTY 1 (AR09)
```

Images 09-CC-2004-000046.60

01/05/2007 13:53:06 TRAN TRANSMITTAL NOTICE SENT TO DEFENDANT (AR09)

Key	Date	Pages	Document Type	Name	
		1 - 3	Document type	Manne	

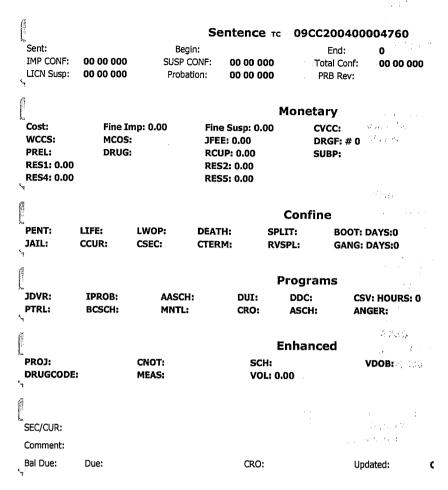
Witness List

Financial

Motions



Company Name: ATTORNEY GENERALS OFFICE User ID: JMPORTER Last login Date: 4/26 : Main Menu econitor-> County: 09 - BULLOCK Case Number: 09-CC-2004-000047.60 | NOTICE Name: COLEMAN JOHN STEPHEN SR Search Charge: RULE 32-FELONY ☐ Party Search ☐ Case Lookup Case ☐ Attorney Search See Case Detail Record from Alacourt.com version 1 □ Warrant Search □ Witness Search **Case Information** DocketSearch ☐ HotSheet™ County: Case No: CC-2004-000047.60 LBS HON. BURT IID: BULLOCK Filed: 10/03/2006 AAGCY: C County Muni Nº: 00 **Tracking** 04/29/2004 Arrest date: Offe date: 02/28/2004 ORI: 0090000 ☐ Attorney Tracker Indict date: 04/20/2004 Grand jury: BS0477 Atty 1: KEL056-A Tracking No's: 0/0/0 ☐ Case Monitor Date: Que: Desc: □ Name Tracker Time: □ Reminders **Defendant Information** COLEMAN JOHN STEPHEN SR Name: Alias 1: Desktop DOB: 05/07/1964 418-98-9210 SSN: Driv License No: ☐ My Alacourt 5'10" Height: Weight: 160 White /M Race/Sex: SID: AL223809 YDate: AIS: 223809 Address 1: **EASTERLING CORRECTIONAL** Address 2: Administration Zip: 36017 City: CLIO State: □ Update User Info **Prosecutor and Attorney Info REE031** Name: REEVES BENJAMIN C JR Prosecutor: Prosecu Attorney 1: KEL056-A Name: KELLY THOMAS FRANK JR Attorne^{*} Attorney 2: Name: **Attorne Warrant Information** Warrant Date: WARACT: WARLO Warrant Date Code: (1.9Ga). WARLO WARACT Code: -BP ISS: BP RTN: Charges 1. Crime co: RULE Statute: **RULE 32-FELONY** Stat Name: RULE 32 2. Crime co: Statute: Stat Name: 3. Crime co: Statute: Stat Name: Ò. More: Dom Viol: Case Type: F Comment: W. Ash Oak 27.080% **Bonding Information** Bond amt: 0.00 Bond type: Bond co: Rel date: Sure: CWIT: Jury Demand: Appeal Type 3000 de la Settings Disposition VIR. J Sentence



Enforcement

Consolidated Case Action Summary

Consolidated Case Action SummaryTc 09CC20040

```
Date Time Code Comments

10/05/2006 13:50:27 JUDG ASSIGNED TO: (LBS) HON. BURT SMITHART (AR01)

10/05/2006 13:50:28 STAT INITIAL STATUS SET TO: "P" - PRISON (AR01)

10/05/2006 13:50:29 FILE FILED ON: 10/03/2006 (AR01)

10/05/2006 13:50:30 ARRS DEFENDANT ARRESTED ON: 04/29/2004 (AR01)

10/05/2006 13:50:31 INDT DEFENDANT INDICTED ON: 04/20/2004 (AR01)

10/05/2006 13:50:32 ATY1 ATTORNEY FOR DEFENDANT: KELLY THOMAS FRANK J(AR01)

10/05/2006 13:50:33 FILE CHARGE 01: RULE 32-FELONY/#CNTS: 001 (AR01)

10/05/2006 13:50:34 CASP CASE ACTION SUMMARY PRINTED (AR01)

12/08/2006 11:28:42 DJID DISPOSITION JUDGE ID CHANGED FROM: TO: LBS

12/08/2006 11:28:43 DISP CHARGE 01 DISPOSED BY: DISMISSED ON: 12/07/2006

12/08/2006 11:28:44 DISP CHARGE 01: RULE 32-FELONY/#CNTS: 001 (AR10)

12/08/2006 11:28:45 D001 ENFORCEMENT STATUS SET TO: "N" (AR10)
```

3.1

Images 09-CC-2004-000047.60

Key Date Pages Document Type Name

Witness List

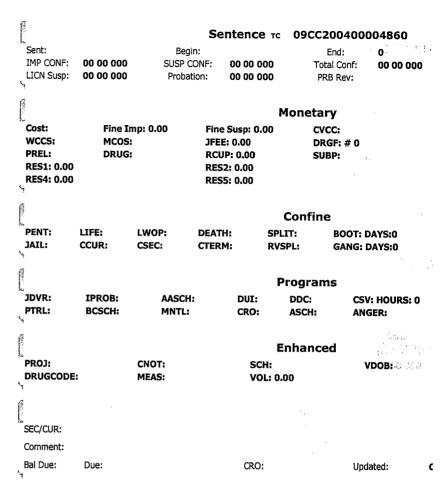
Financial

Motions



Company Name: ATTORNEY GENERALS OFFICE User ID: JMPORTER Last login Date: 4/26 : Main Menu Monitor S County: 09 - BULLOCK Case Number: 09-CC-2004-000048.60 | NOTICE Name: COLEMAN JOHN STEPHEN SR Search Charge: RULE 32-FELONY ☐ Party Search ☐ Case Lookup Case ☐ Attorney Search □ Warrant Search See Case Detail Record from Alacourt.com version 1 ☐ Witness Search **Case Information** □ DocketSearch 09 □ HotSheet™ County: Case No: CC-2004-000048.60 JID: LBS HON, BURT ! BULLOCK Filed: 10/03/2006 AAGCY: C County Muni Nº: 00 Tracking Arrest date: 04/29/2004 Offe date: 03/03/2004 ORI: 0090000 ☐ Attorney Tracker Indict date: 04/20/2004 Grand jury: BS0478 Attv 1: KEL056-A Tracking No's: 0/0/0 ☐ Case Monitor Date: Que: □ Name Tracker Time: Desc: ☐ Reminders **Defendant Information** Name: COLEMAN JOHN STEPHEN SR Alias 1: Desktop DOR: 05/07/1964 418-98-9210 Driv License Nº: ☐ My Alacourt Height: 5'10" Weight: 160 Race/Sex: White /M SID: AL223809 YDate: AIS: 223809 **EASTERLING CORRECTIONAL** Address 1: Address 2: Administration Zip: CLIO City: State: □ Update User Info **Prosecutor and Attorney Info** Prosecutor: REE031 Name: REEVES BENJAMIN C JR Prosecu Attorney 1: KEL056-A Name: KELLY THOMAS FRANK JR Attorne Attorney 2: Name: Attorne^a **Warrant Information** Warrant Date: WARACT: WARLO Warrant Date Code: WARACT Code: WARLO BP ISS: BP RTN: Charges 1. Crime co: RULE Statute: **RULE 32-FELONY** Stat Name: RULE 32 2. Crime co: Statute: Stat Name: 3. Crime co: Statute: Stat Name: 10 More: Dom Viol: Case Type: F Comment: **Bonding Information** Bond amt: 0.00 Bond type: Bond co: Rel date: Sure: CWIT: Jury Demand: Appeal Type Settings Disposition

Sentence



Enforcement

Consolidated Case Action Summary

```
Consolidated Case Action SummaryTc 09CC20040
Date
         Time
                 Code Comments
10/05/2006 13:52:16 JUDG ASSIGNED TO: (LBS) (AR01)
10/05/2006 13:52:17 STAT INITIAL STATUS SET TO: "P" - PRISON (AR01)
10/05/2006 13:52:18 INDT DEFENDANT INDICTED ON: 04/20/2004 (AR01)
10/05/2006 13:52:19 ATY1 ATTORNEY FOR DEFENDANT: KELLY THOMAS FRANK J(AR01)
10/05/2006 13:52:20 ARRS DEFENDANT ARRESTED ON: 04/29/2004 (AR01)
10/05/2006 13:52:21 FILE FILED ON: 10/03/2006 (AR01)
10/05/2006 13:52:22 FILE CHARGE 01: RULE 32-FELONY/#CNTS: 001 (AR01)
10/05/2006 13:52:23 CASP CASE ACTION SUMMARY PRINTED (AR01)
12/08/2006 11:29:09 DJID DISPOSITION JUDGE ID CHANGED FROM: TO: LBS
12/08/2006 11:29:10 DISP CHARGE 01 DISPOSED BY: DISMISSED ON: 12/07/2006
12/08/2006 11:29:11 DISP CHARGE 01: RULE 32-FELONY/#CNTS: 001 (AR10)
12/08/2006 11:29:12 D001 ENFORCEMENT STATUS SET TO: "N" (AR10)
```

Filed 05/03/2007

Page 8pof 8 3 of 3

Images 09-CC-2004-000048.60

Key Date Pages Document Type Name

Witness List

Financial

Motions